ABUSE OF JUVENILES IN PUBLIC CARE AND DETENTION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

ALLEGATIONS OF SERIOUS ABUSES AND MISCONDUCT IN THE DETENTION OF JUVENILES IN INSTITUTIONS MAINTAINED IN THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES

FEBRUARY 11, MAY 26 AND 27, 1982

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ABUSE OF JUVENILES IN PUBLIC CARE AND DETENTION

THURSDAY, FEBRUARY 11, 1982 [1]

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 5110, Dirksen Senate Office Building, Senator Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Metzenbaum, Boren, and Nickles.

Staff present: Bruce A. Cohen, chief counsel; Marjorie Miller, professional staff member; and Stephen Sendar, staff assistant.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen. It is 10 o'clock. We will begin the meeting.

We are scheduled this morning to proceed with our continuing inquiry and oversight of federally assisted crime programs, with special emphasis on their impact on juvenile delinquency.

We are going to have an addition to the agenda with the consent of Senator Metzenbaum, the ranking minority member of this subcommittee.

It has come to our attention that there are allegations of abuse of juveniles in certain institutions in the State of Oklahoma. There is litigation on that subject and there has been an extensive series of reports on the subject. To make some preliminary determination on that issue, the subcommittee has dispatched Mr. William Treanor to make a preliminary inquiry. He is going to testify this morning to give the results of his investigation. Staff counsel, Mary Louise Westmoreland, will then testify from and intralace reports from the Department of Human Services of the State of Oklahoma.

I have invited Senator David Boren, who is seated with me here this morning, to join in these proceedings because of his very deep interest in the subject matter, being senior Senator from Oklahoma. I have briefed Senator Boren, on the matters as they have come to my attention, as I have briefed Senator Don Nickles on these matters, as well.

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[1] Note.—The testimony of the witnesses, Hon. Stanley Morris, Associate Deputy Attorney General, U.S. Department of Justice, Cornelius Behan, chief of Baltimore County Police Department, and Hon. Joseph A. Fusco, county prosecutor, Atlantic City, N.J., who testified on February 11, 1982, may be found in the hearing titled "Criminal Justice Assistance to State and Local Law Enforcement" Serial No. J-97-105 combined with a hearing held on March 18, 1982.

Senator Nickles has been invited to join us in this proceeding and may well be here in a few moments.

Welcome, Senator Boren.

Senator **Boren**. Thank you very much, Mr. Chairman.

Senator **Specter**. Would you care to make any comments at this time?

OPENING STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator **Boren**. I thank you very much, Mr. Chairman. I think Senator Nickles also plans to be with us.

I want to say at the very beginning that I certainly share your concern and that of the members of the subcommittee that we have proper juvenile services available and that we have proper treatment for juveniles who are in our institutions.

I think that is a feeling that is shared by a large majority of Oklahoma officials. If there is anything wrong in Oklahoma or anyplace else in the country, we think those abuses should be corrected. It is something that we would want to see corrected.

This is the feeling that I have had for a long time. I have been concerned about large-scale institutionalization and have advocated other approaches, group homes, shelters and other approaches, that would prevent large institutionalization from occurring.

The concern for proper juvenile services is primary. I feel that most Oklahoma officials share these concerns, as has been demonstrated by the fact, as I am sure the committee knows, that the Governor of the State has asked for a State investigation by our State bureau of investigation into these allegations of abuse. The department itself is now conducting an internal study. The State attorney general has gotten involved and the leadership of both houses of the legislature.

So I do want to assure you that the State officials involved have conveyed to me their concern, their desire to be informed, and to have constructive suggestions from the committee.

My only other concern would be that we do make sure that we conduct ourselves in a fair fashion, that we allow the State officials an opportunity in a timely fashion to consult with the committee and to present any information that they might want to present in terms of what is being done in the State of Oklahoma and in terms of the program that is being conducted there.

I again want to thank you for your courtesy in inviting me to sit in on the hearing. I applaud your long concern for juvenile services. If we can have the right kinds of programs, we can root out serious adult offenders' offenses before they ever occur and we can prevent these kinds of things from happening.

I think it is an extremely important subject matter you are involved with, and I appreciate the invitation to be here.

Senator **Specter**. Well, the subcommittee has been in touch with the key officials from the Department of Human Services of the State of Oklahoma and have advised them of our interest in the matter and have informed them that we would be beginning in a preliminary way today. We have assured them that they would have an opportunity to meet informally with the subcommittee and then have an opportunity to present testimony publicly. We advised them what we were going to be doing today and said that if anybody wanted to be present today that they would have an opportunity to say whatever they chose, not that they needed to be here; that it was short notice; and that the proceeding today was going to be on a very preliminary level to see what appropriate steps ought to be taken next, if any. We shall proceed on just that basis.

Senator **Boren**. We appreciate that, Mr. Chairman. I think that is a very proper way to proceed. And I am certainly going to convey the hope to our State officials that they will accept your invitation to appear later and to meet with the committee staff later. And I think that is a very good way to proceed.

Senator **Specter**. Senator Boren, they already have indicated their willingness to cooperate and their interest in meeting with us.

We have been joined by Senator Nickles and also by Senator Metzenbaum. I will turn at this time to see if Senator Metzenbaum has an opening statement which he would like to make.

OPENING STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator **Metzenbaum**. Thank you, Mr. Chairman.

Let me say that I first commend you for the yeoman work that you have been doing with this committee in this field. I think you have taken a subject which for some might have been swept under the carpet, and you have really zeroed in on the problems. And I think that all of us are indebted to you for your having done so.

I am aware of the fact that the testimony that will be presented here today is both shocking as well as deplorable, and I do not think that it is unique. I think it is somewhat typical of some of the problems that exist in the country today.

But having said that, I think it is pretty obvious that there is much work that has to be done in the whole field having to do with juveniles. I think it concerns me that at this very moment, when the problems that will be laid bare today in this hearing continue to occur, that the administration is launching an all-out attack on the very programs that could possibly help to alleviate the problems. Instead of doing more, they are prepared to do less.

In the field of juvenile justice, there is $97 million for the 1981 allocation; for 1983, zero. For runaway youth, $11 million in 1982; about half of that amount for 1983. For child welfare, a cut from 1981 of $523 million to $380 million. And for legal services, so that these young people might have the privilege and the benefit of having adequate representation, a cut of $321 million in 1982 to zero in 1983.

Now to me, Mr. Chairman, that is unconscienable. While conditions exist which we will hear described graphically today, that there would be cutbacks such as these and, in some instances, a total wiping out of the program. As you well know, this committee does not really have jurisdiction as to determining the budgets for these programs, but I expect that in our Budget Committee, on which I sit, that a fight will be made to provide more adequate funding than is presently contemplated by the administration.

I feel confident that as we proceed, we are going to need every ally that we can get, and I am looking forward to your support in providing adequate funding.

Senator **Specter**. I thank the distinguished Senator from Ohio for those very complimentary remarks, and join with him on the comment about the need for adequate funding for these kinds of programs.

I would note very briefly in passing that we do have the responsibility for the Office of Juvenile Justice and Delinquency Prevention, that we battled an effort by the Department of Justice last year to have that zeroed out, and we retained $70 million after a very intense struggle, which budget authority was deferred by the Office of Management and Budget. We had to obtain a specific resolution of disapproval from the Senate requiring that money be put back on track, and thereby overcame all the hurdles last year placed before the juvenile justice program. We will continue to monitor the juvenile justice program and the other items to which Senator Metzenbaum has referred. They are matters of utmost importance which this subcommittee will pursue.

I would like to turn at this time to my distinguished colleague from the State of Oklahoma, Senator Nickles, who as I said earlier has been informed of this inquiry and has been briefed about the preliminary findings of the subcommittee staff. I have welcomed him to join us here, and I am glad to find you here, Senator Nickles.

We would be pleased to hear from you.

OPENING STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator **Nickles**. Thank you, Senator Specter.

Mr. Chairman, we appreciate the information you have supplied my office and Senator Boren's in the past couple of days shedding light on some of the things you have discovered and will expose today for public information.

I, as well as all Oklahomans, certainly think that if the allegations which will be made public today are substantiated in the future, we all share the outrage that those things have been allowed to happen. We want to do all we possibly can do to insure that they do not happen again. And that is really where we are today.

I think the investigation which your people—and I will ask some questions—has only really just begun, as I think you alluded to when I first came in. We have not yet had testimony from the head of the Department of Human Resources in Oklahoma to give his side of the story. I think that it is important that both sides be brought out as we investigate.

We are seeing some smoke now. We need to determine whether or not there is some fire. And if there is, we need to put it out. It is my contention that it is primarily the responsibility of Oklahomans, the Governor, and the State legislature to examine the State operated, controlled, and primarily State-funded schools, although they do receive Federal funding which I guess gives us some input and responsibility in the area. However, it is primarily their responsibility.

I think that we, on the Federal level, because we are spending Federal tax dollars, should try to make sure that those schools are properly operated. And if they have not been, possibly we can work in conjunction with those State officials to see that in the future they will be.

Allegations have been made that some State employees have been treating individuals harshly, unfairly, and maybe even criminally. Those employees need to be dismissed, possibly punished, or indicted through the criminal process, if those are warranted.

So I think this committee, Senator Boren, and myself we want to do everything we possibly can to eliminate this type of abuse if it has been going on.

So we certainly will give you our utmost cooperation to do everything within our scope to eliminate abuse as soon as possible and make remedies. If it means dismissing employees guilty of this type of operation, then, hopefully, we will be able to work with the State officials and expedite that as quickly as possible.

Senator SPECTER. Thank you very much, Senator Nickles.

I think your comments about the allegation stage are well taken. I was very circumspect and careful in my introductory comments to say that these were allegations and to use no language of characterization at all. It is a matter for evidence and it is a matter for a factual determination, and this is step one.

And as Senator Boren had pointed out, there is an importance to having an opportunity for everybody to be heard. And that is the intent of the subcommittee, and we have already taken steps to effectuate that, so that we will have a full and effectual hearing.

At this time I will call on Mr. Treanor to step forward, please.

STATEMENT OF WILLIAM W. TREANOR, CONSULTANT TO THE SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. State your name for the record, please.

Mr. TREANOR. My name is William Treanor.

Senator SPECTER. Are you a consultant to the Subcommittee on Juvenile Justice of the Committee on the Judiciary of the U.S. Senate?

Mr. TREANOR. Yes, sir, I am.

Senator SPECTER. And how long have you worked in that capacity?

Mr. TREANOR. I have been a consultant since October. I was on the staff starting last June.

Senator SPECTER. Pursuant to those duties, have you had occasion to visit the State of Oklahoma to make certain inquiries?

Mr. TREANOR. Yes, sir, I have.

Senator SPECTER. When were you there?

Mr. TREANOR. I was in Oklahoma last Thursday until yesterday, Senator.

Senator SPECTER. What was the purpose of your visit there?

Mr. **Treanor**. The purpose of my visit was to explore the conditions in the State institutions run by the department of human services and to ascertain whether there were any matters that might be of interest to the subcommittee.

Senator **Specter**. During the course of that investigation did you have an opportunity to talk to and question juveniles who were in those institutions?

Mr. **Treanor**. Yes, Senator, I did.

Senator **Specter**. Did you have occasion to obtain statements, signed statements from those individuals?

Mr. **Treanor**. Yes, Senator, I did.

Senator **Specter**. Now, starting off as factually as possible, would you identify the first individual whom you will testify about and set forth the essence of the information obtained in that signed statement?

Mr. **Treanor**. Yes, sir. The—one of the four young people from whom I obtained written statements, which I have right here, was a young woman by the name of Delores Briscoe. She is now 18 years old. She described to me her various court appearances for being a runaway. Now, to quote from her statement, Senator——

Senator **Specter**. She was institutionalized where?

Mr. **Treanor**. She was in a number of institutions. She was in the Rader Diagnostic and Evaluation Center in Taft, Okla.

Senator **Specter**. How long was she in those institutions altogether, if you know?

Mr. **Treanor**. She was there for approximately 8 months, Senator.

Senator **Specter**. Again, what was the reason she was placed there?

Mr. **Treanor**. She was a runaway, a status offender.

Senator **Specter**. There is no charge of any criminal conduct on the part of Delores Briscoe, simply a runaway in a status where she is deemed under the laws of Oklahoma to need care?

Mr. **Treanor**. Yes, in need of supervision.

Senator **Specter**. How old was she when she was first placed in the institution?

Mr. **Treanor**. Seventeen.

Senator **Specter**. Proceed with what she said to you.

Mr. **Treanor**. She wrote in her statement.

> When I arrived at the Diagnostic and Evaluation Center, I was stripped naked and searched by a woman youth worker. I was still handcuffed from when they took me from the Muskogee jail 2 hours before. Then I was taken to an office, the handcuffs removed and stripped naked, and searched again.
>
> During my 6 weeks in the Rader Diagnostic and Evaluation Center I saw a psychologist technician for only 5 minutes. He had me draw some pictures. I never saw a psychologist. I was diagnosed "under stress." I asked my mother for a lawyer, but she said we didn't have any money.
>
> At the Rader Diagnostic and Evaluation Center the security guards were always making sexual overtures to me. They whistled at me. One guard tried to kiss me while I was in the toilet. One guard pinched me on the butt. I popped him in the chest. He threatened to take me to detention.
>
> Another security guard came to my window at night. He pulled down his pants and showed me his butt and his sex organ. He started coming by every night and pulling his pants down. Sometime he had an erection. I didn't have any curtains; they wouldn't give me any. Once when I was the last one in line, he came up behind me and bumped his body and sex organ against me.

> All the guards that messed with me—all but these guards were involved—promised that they would get me out. One said, "If you go to bed with me, I promise you'll be out by tonight. You will have a place to stay and you will be safe." He was white, about 43 years old. There were lots of others.
>
> One official [name omitted] rubbed me on my arm and touched my breasts. Once, the day President Reagan was shot, he hugged me. The dentist tried to feel me up in the dentist chair. There were more things, but I don't want to say.

Now, Senator, speaking about the Taft Children's Center, she wrote the following:

> There was a deaf girl always trying to kill herself. She stabbed herself in the arm with a pencil. She stabbed herself with a knife or a fork in the breast. She did this almost every day. One day she broke out a window with her hands. She was bleeding a lot. She grabbed the glass and tried to cut herself.
>
> The house parent just screamed at her but, of course, she was deaf. I tried to stop her and I was cut on the arm. I have a 3-inch scar on my right arm from this. My friend I won't give her name is still there. She shouldn't be there. She can't communicate with anyone.
>
> Another time she cut herself with a light bulb. The house parents just ran around screaming. I took the flesh of her arm which was hanging off an pressed it back onto her arm. I tore a sheet and bandaged her. I later got in trouble for tearing the sheet.

Continuing, from another portion of her statement:

> At Taft you could get drugs easy. You could get them from house mothers, at school. Anything—weed, liquor, pills, I don't use drugs or drink alcohol. My stepfather's an alcoholic. I don't see any sense in it.
>
> People would drive up in cars and sell drugs. There were from 18 to 40 years old. I knew then from Muskogee.

And still later in her statement, she explained.

> I never used the advocate defender program. I knew what it was but I thought all this stuff is going down and nothing is done. I saw lawyers on campus, but a house parent [name omitted] told me I couldn't talk to them.

Those are parts of her statement to me, Senator, a statement Delores Briscoe signed.

Senator **Specter**. All right. Proceed with the second juvenile with whom you talked.

Mr. **Treanor**. This young lady is now 19 years old. Her name is Cynthia. She was in several institutions, including the Rader Diagnostic and Evaluation Center, the Whitaker School for Children, which is essentially an orphanage.

Senator **Specter**. Would you specify why she was placed there?

Mr. **Treanor**. She was also a status offender, Senator. She ran away from home.

Senator **Specter**. Again, no charges of any criminal conduct against this young woman?

Mr. **Treanor**. No, sir.

Senator **Specter**. But only a status offender, to be placed in custody to receive necessary care?

Mr. **Treanor**. That is right.

Senator **Specter**. And how old was she when she was first institutionalized?

Mr. **Treanor**. Well, she was in Ponca City Legion Home for 4 years when she was a child, but when she was 13, she says here that she was "beat up on by my dad, who I'd been living with for a year," and it was at that point that she was taken out of the home for her own protection.

Senator SPECTER. What complaints, if any, did she make about the care in the Oklahoma institution?

Mr. TREANOR. She stated the following, Senator:

> I was put in a lockup for 7 days. It was a room about 4 feet by 8 feet with a little peephole. There was a toilet without a seat. The drinking water poured right into the toilet. There was a thin mattress on a cement bed. I had one Army blanket, no sheets, no pillow, and no heat. It was ice-cold. I never left for 7 days. No exercise, no nothing.

She says later in her statement that after certain intervening events she requested a foster home but instead she was sent to the Taft Children's Center, August 15, 1977. She relates the following incident:

> In early September I was horseplaying in dorm 1 with the house parent Mrs. W. She got mad at me. Two girls held me down while the house parent Mrs. W hit me repeatedly with a 2-foot-long black leather strap a half-inch wide. That thing really stung. It had keys on the end, which she held in her hand. She hit me at least 10 times. She hit me hard enough to leave red marks.
>
> I finally broke loose. Then I got up and shoved her back. I kicked her in the belly. The house parent Mrs. W called security and they took me to lockup.
>
> It was another small room but there were chains on the wall, like bondage. They had me tied to the wall during the day and chained to the bed at night. I had to beg to go to the toilet. I was shackled to the bed one way all night.

Senator SPECTER. She was what into the bed?

Mr. TREANOR. Shackled, chained hand and foot. She could not turn over or anything.

> I was there 14 days. Then the advocate defender, who I'd never heard of before, came to to see me. He took a report and said he would send a report to the State office. If he did, I never heard nothing.

Then she talks about how she was finally able to see Steve Novick, from Western Oklahoma Legal Services, who contacted her and became her attorney, and she was released from Taft.

But she does have this to say about Whitaker:

> I was never abused at Whitaker but I saw plenty. For instance, during the 14 months that I was there, I saw a worker Mr. S jump on James age 9. He had his knee in his back and pulled his arms back. James was screaming because he was scared and in pain.

Senator SPECTER. Who was it who did the jumping on?

Mr. TREANOR. A worker Mr. S at the children's center jumped on a 9-year-old boy named James.

> If I could relive my life, I wouldn't have an institution in it for nothing. If I had a choice between being on the streets and living in one of the institutions, I'd rather be on the streets. I left Whitaker on July 17, 1980, my 18th birthday. I was happy because I knew the State could not run my life no more.
>
> When I left Whitaker, I turned around and gave it the bird. The radio was playing "Free Bird" as the State car drove me away.

Senator SPECTER. Would you proceed to the third statement that you obtained from a juvenile who had been in an institution there?

Mr. TREANOR. Yes, sir. This is from a woman now 20 years old by the name of Karen. She is from Cincinnati, Ohio, but had been living in Oklahoma for a number of years. She relates the following—I will just summarize: She started running away when she was 16. She was sent to the Rader Diagnostic and Evaluation Center.

Senator SPECTER. There again, there was no criminal charge pending against this young woman?

Mr. **Treanor**. No, sir.

Senator **Specter**. Just a runaway placed in the institution for the avowed purpose of receiving care?

Mr. **Treanor**. That is right. She was an abused child and determined to be in the need of supervision.

Senator **Specter**. All right, what did she say to you?

Mr. **Treanor**. She said her stepfather beat her a lot. "One time he cracked my wrist." This is her account of why she was taken out of her home. When she was 16, she ran away from home. "My stepfather tried to rape me. I was picked up by police somewhere in Texas."

Then she was sent to the Radar Center. She talks about being in lockup. She describes the same type room as the other girl. She talks about Whitaker. To quote,

> I left the Rader Diagnostic and Evaluation Center in January, 1976. They shipped me to Whitaker. They didn't tell me where I was going until they had me in the car, and handcuffed, at that. They were on very tight and cut my wrists. I still have the scar.

I saw the scar, Senator. She showed it to me.

> At first Whitaker looked like a home, but when I got to looking at it, it looked like a prison. Once I got into a fight with another girl.
>
> The security was called. A woman and a man came. I think the man was Mr. B, someone, maybe Mr. B floored me and put his knee in my back. They put leather restraints on me. The leather restraints tied my feet and legs together. My arms were strapped behind my back. I was left strapped that way in a small cell without a blanket for 24 hours. I stayed there, but not tied up, for another 3 weeks.

Senator **Specter**. Did she say what provoked that kind of treatment, if anything?

Mr. **Treanor**. She was in a fight with another girl. She described to me at that point, Senator, she got up and she illustrated how she had her arms strapped behind her back, like this, with her feet pulled up [indicating], and that was the way, her legs tied together, that is how she was held for 24 hours.

I asked her what she had done about going to the toilet. Her answer was she "held it."

Senator **Specter**. Proceed.

Mr. **Treanor**.

> One time I was in lockup I was so upset that I continuously banged my head against the wall. They came in and stripped me. Someone, perhaps Mama H. slapped me in the face. I was stripped to my underwear. There was a man holding my feet. They got me in a monkey suit. My head hurt a lot. I just passed out, went to sleep.
>
> They cleaned my bloody head while I was asleep. For me, it was attempted suicide to get out of Whitaker, to get out of the whole damn world.
>
> My mail was steamed open and my privacy invaded. Fifty percent of the letters my mother sent me never arrived. Some of my letters never got out.
>
> Drugs ran freely on the Whitaker campus. One of the recreation workers, T regularly sold the boys liquor and drugs, marihuana, acid, speed—mollies—and most popular of all, LSD."
>
> I never knew about the advocate defender program during my 2 years in D&E and Whitaker. I only learned about it in 1982, after I was out. I never had a lawyer. I was never told I had any rights except when I was picked up by the police for being a runaway.
>
> Leaving Whitaker was the most wonderful thing that ever happened to me in my life.
>
> It's about time somebody stepped in and took a look at the institutions. I will go to court on this. I just want to help the kids who can't fight back.

That is her statement, Senator.

Senator **Specter**. Did you talk to a fourth juvenile who had been institutionalized at the Oklahoma institutions?

Mr. **Treanor**. Yes, sir, I did. I talked to a young man who has been a ward of the Department of Public Welfare since he was 7½ years old.

Senator **Specter**. You obtained a signed statement there, as well?

Mr. **Treanor**. Yes, sir, I did.

Senator **Specter**. Would you proceed to tell the subcommittee about that, please?

Mr. **Treanor**. He stated the following:

> I stayed in the first group home for 6 months. I was regularly beaten with a black rubber hose. I finally ran away. During the next 4 years I lived in approximately 10 different places.

He then goes on to describe all that.

Senator **Specter**. Again, he was placed there for running away, there was no criminal charge?

Mr. **Treanor**. His father is in prison and his mother abandoned him.

Senator **Specter**. He was then placed in an institution for care?

Mr. **Treanor**. That is right.

Senator **Specter**. Proceed.

Mr. Treanor:

> One time when I was 12, I ran away from a foster home. The police caught me and called a judge in Magnum, Oklahoma, where I was then living. He had me put in the police station jail for the night.

Then he goes on to describe how he eventually wound up at the Whitaker State Children's Home. He describes his arrival there:

> I asked my social worker who drove me back why I was being sent there. She said she didn't know, but I would be there only 6 weeks. She was lying. I was there 2 years. I never knew why. I never got a lawyer, court hearings, anything like that.
>
> Whitaker is pretty strict. It's run like a penitentiary.
>
> The staff at Whitaker used a lot of physical punishment. I had run-ins with them three or four times.

He then describes a run-in, Senator, after he had been there about a month, where his hair was pulled by a gentleman by the name of Mr. B who was also mentioned in an earlier statement. I will just skip that one. He does say that he did not report it because he thought he would get in more trouble.

Then he goes on to relate the following incident: "I had some other run-ins, but the next really bad one was March 5, 1981." He then describes how he had refused to go to bed.

Then he relates that he would not talk to somebody, and then one of the security guards, Mr. C arrived:

> Mr. C said, "Let's go to Central." That's a place of detention.
>
> About 20 seconds later Mr. C grabbed me around the neck from behind. I was sitting in a chair watching TV. Mr. B grabbed my arm. Mr. R and Mrs. H just watched. As they dragged me out of the cottage, I yelled to Mr. C, "You're choking me." Mr. C said, "No, I'm not." "You are a God-damned liar." He loosened his grip a bit.
>
> Between my cottage, Cedar, and Central, they stopped. Then Mr. B started twisting my right arm. It hurt real bad. He pushed me against a brick wall. My arm was still being twisted. Mr. B said, "Cuss me out like you cussed out my wife."

Mr. B's wife works at Whitaker, apparently.

> I'd said I was sorry, but he kept taunting me while twisting my arm. Eventually, Mr. B and Mr. C took me into Central cottage. I must have been outside about 5 minutes. Mr. B was still acting rough toward me, but Mr. C told him to knock it off because Mrs. S was at the top of the stairs and could see us.

He then talks about how he complained about his arm hurting. They called a nurse. "Then I was given a hot water bottle and two Tylenol. I was still in pain, but I went to sleep. The next——

Senator SPECTER. What happened to him as a result of that incident?

Mr. TREANOR. I am just coming to that right now, sir. "The next morning a nurse came and examined me. She got me an X-ray. My arm was broken." He describes how he had to wear a sling for 5 months.

Senator SPECTER. How many people were with this young man at the time that occurred?

Mr. TREANOR. There were two security guards, sir.

Senator SPECTER. And what was the provocation, if any, which led to the breaking of the arm?

Mr. TREANOR. He refused an order to go to bed.

Senator SPECTER. Proceed.

Mr. TREANOR. He then went on to relate to me, Senator, that just last month they had another problem at Whitaker. Essentially, he was in a fight and some of the staff jumped on top of him. This is January 10, 1982. He then describes he had a limited privilege hearing and then he says, "Fortunately, I left Whitaker on January 21 for a court hearing. I was very happy to leave Whitaker. I don't want to go back. January 21 was my 15th birthday."

Senator, this young man at this very hour is having a hearing in Juvenile Court in Oklahoma City in his quest for foster home.

Senator SPECTER. Not on a criminal charge?

Mr. TREANOR. None of these young people have ever had a criminal charge pressed against them, to my knowledge.

Senator SPECTER. Mr. Treanor, going back to the Briscoe statement, I would like you to put into the record the details of what that signed statement disclosed as to the incident with Louise.

Mr. TREANOR. Oh, yes. She describes an incident here, Senator, she states the following:

> Mr. B a worker at Taft kissed and felt up girls. One day, in the summer of 1981, I walked into the Taft greenhouse. There was a little blanket stretched out on the ground. He had his pants down, hers were off. They were having sex——

Senator SPECTER. "Hers" is referring to whom?

Mr. TREANOR. A girl that she would not identify, Senator. A girl who was a resident of the Taft Children's Center. That man was a staff person at the Taft Children's Center.

> He had his pants down, hers were off, they were having sex. I said, "What the hell are you doing?" He jumped up and pulled up his pants. She had semen running down her legs. She told me it was none of my business. He offered me a plant, the biggest, prettiest plant." I didn't tell anyone. I should have, but I thought nothing would be done about it.

Senator SPECTER. What complaints, if any, did these four individuals make concerning the incidents they reported to you and gave signed statements about?

Mr. TREANOR. Sir, I do not understand the question.

Senator **Specter**. What complaints, if you know, did these four juveniles make to those people who were in authority at the Oklahoma institution?

Mr. **Treanor**. In some cases, particularly in the later stages of their stay, they did make some complaints. But there was an overall feeling, these young people felt that nothing would come of it, or, if anything, they would get in more trouble as a result of reporting some of these incidents to whoever the responsible people were.

Senator **Specter**. Did you question them specifically?

Mr. **Treanor**. Yes, sir, I did.

Senator **Specter**. Had they on some occasions made complaints and not had the complaints followed up with any appropriate inquiry or action?

Mr. **Treanor**. There were a number of instances. For instance, Mike, the boy who had his arm broken stated—let me just find that quickly—"Later I gave a statement on this incident"—this is the broken arm incident—"to the Whitaker advocate defender, Bob Mitchell. Mr. Hunt, the superintendent, was present. I also gave a statement on these events to Mr. Hunt's secretary.

> On March 10, someone from the State office, I think it was Mr. Saxton, interviewed me for 1 hour. After the interview he said "We'll investigate this and let you know what we found out." I never did hear from that man again or from Mr. Hunt either.

Senator **Specter**. That is on the broken arm incident?

Mr. **Treanor**. That is right, sir.

Senator **Specter**. Do you know, Mr. Treanor, if anything was done as a result of that incident to the people who were involved?

Mr. **Treanor**. Yes, sir, I do. I have the file on that right here. I have the statement of Mr. C and Mr. B the security guards.

Senator **Specter**. They were the two security guards involved in the incident?

Mr. **Treanor**. That is right, Senator.

Senator **Specter**. What happened, if anything?

Mr. **Treanor**. They say that Mike was fighting and they were just restraining him. However, they were requestd to take lie detector tests, and they refused.

Senator **Specter**. They refused to take polygraph examinations?

Mr. **Treanor**. That is right, Senator.

Senator **Specter**. Do you know from the report what, if any, action was taken as to those security guards?

Mr. **Treanor**. There is a long report from the State, but it is not clear what—from Charles Garrett, the inspector general, Mr. Saxton works for Mr. Garrett. It was referred on March 13 to the various officials in the department, including Wesley Rcker, supervisor of division of institutions and community service to children and youth——

Senator **Specter**. March 13, 1981?

Mr. **Treanor**. Yes.

Mike told me that both these gentlemen were still working at the institution.

Senator **Specter**. As of when?

Mr. **Treanor**. Well, until shortly before he left. It is my understanding that these gentlemen were fired from their jobs approximately 2 weeks ago. I have not spoken to either of them, though.

Senator **Specter**. Do you know for what reason they were fired approximately 2 weeks ago?

Mr. **Treanor**. No, Senator, I do not.

Senator **Specter**. All right, now, moving beyond these four individuals whom you talked to, did you have an opportunity to talk to any of the employees of the Department of Human Services who were in charge of running these institutions?

Mr. **Treanor**. Yes, Senator, I did.

Senator **Specter**. What did you learn from those interviews?

Mr. **Treanor**. I learned from talking to people who work in the State office, high officials there, people who are responsible for training employees of the training schools, that although there were mechanisms in place and in some cases rules in place to deal with the kind of incidents and abuses that I have read this morning, in fact that system did not, in the opinion of these people, work very well, that the department was run in a whimsical manner.

Senator **Specter**. How many people did you talk to who were ranking employees of the department which runs the institutions?

Mr. **Treanor**. At least three, Senator, who fit that category.

Senator **Specter**. And at this juncture, without disclosing their identity, how high ranking were they?

Mr. **Treanor**. Quite high. All were in the chain of command that would deal with these kinds of incidents, either the supervisory chain of command or the investigative, legal chain of command.

Senator **Specter**. And were the three people whom you talked to generally cooperative and interested in being of assistance to the subcommittee and in improving whatever situation exists there?

Mr. **Treanor**. They were very interested in being cooperative. However, they were not interested in being cooperative if even the fact that they had spoken to me was to be publicly exposed.

Senator **Specter**. They did not want the information they gave you to be publicly disclosed because they did not want to be volunteers?

Mr. **Treanor**. That is right, sir, they do not want to be volunteers.

Senator **Specter**. But if they were subpenaed, is it your sense that they would lay out the facts in a truthful and full fashion before the subcommittee?

Mr. **Treanor**. Yes, sir. I was impressed by the caliber of these people. I thought that they were good people who were trying earnestly to do a good job.

Senator **Specter**. And what, if anything, do you think that the subcommittee would learn if subpenas were issued to them and they were brought before the subcommittee to say what they know?

Mr. **Treanor**. I think—I believe we would learn what happened in some of these instances when there were complaints and why no action was taken. I think we would learn why no action was taken. I think we would learn why there was not a system of both management and training of staff to deal with these kind of instances before they happened.

We would also, I believe, learn why there are so many young people in the State of Oklahoma, in the opinion of the people that I spoke with, inappropriately placed in institutions.

Senator SPECTER. What do you mean by that?

Mr. TREANOR. The people I spoke with felt very strongly that these deprived—which is a term that is used in the Oklahoma statutes—that these deprived people, in-need-of-supervision people did not belong in institutions.

Senator SPECTER. All right, now, Mr. Treanor, you have testified as to the specifics of the four statements which you have obtained and the generalizations from the other individuals. This is a preliminary inquiry, and the other Senators on the panel will have an opportunity to question you at this moment.

But is there anything else—and you have avoided any characterizations or generalizations, which I think is the appropriate course for you to have taken this morning in accordance with our prior conversations on the matter——

Mr. TREANOR. Yes, sir.

Senator SPECTER. So that we would deal with this issue as factually as possible. Now, is there anything else that you would like to call to the subcommittee's attention at this time before the other Senators have an opportunity to question you further?

Mr. TREANOR. Senator, just perhaps to be a little bit clearer about the conversations with the State employees. They did feel, they made some statements to me to the effect that—one man said to me, I will lose my job. Another man said, I can't talk to you, it will get back to Mr. Rader, who is the director of the Department. So I just wanted to make that clear to the subcommittee.

Senator SPECTER. All right. As a matter of legal procedure, it is true, is it not, that if subpenas are issued by the subcommittee, any individuals who are called for compulsory process to testify, that they would have protection and they could not be fired for what they give under that kind of a procedure?

Mr. TREANOR. That is my understanding, yes, that they would be forthcoming under those circumstances.

Senator SPECTER. Do you know about the existence of the files of complaints and reports? And if so, to what extent do they exist?

Mr. TREANOR. I have seen, during a visit I paid to the Sequoyah State Office Building, 13 file cabinets, which I understand contain approximately 7,000 abuse reports.

I have also seen about an equal number of cabinets which contain the various documents that were generated as the result of the class action lawsuit brought by Western Oklahoma Legal Services and others.

It is also my understanding that somewhere in the Sequoyah Building are a number of items, items that have been used, items such as handcuffs, straps, shackles, some of the actual doors that were used in some of these detention buildings, which have since been torn down, I am told. And those things exist also.

Senator SPECTER. Thank you very much, Mr. Treanor.

Senator Metzenbaum.

Senator METZENBAUM. Mr. Treanor, how far up the level did you go in talking with administrative people in the department?

Mr. TREANOR. I did not talk to the director of the department, Senator, but I talked to several people who report directly to him.

Senator METZENBAUM. Was he not available to you, or did you not make the effort to do so?

Mr. TREANOR. I did not make the effort at the beginning, Senator. It was my understanding that he left Oklahoma for Washington Saturday evening. I got there Thursday afternoon, and he left there on Saturday, so I did not make an attempt.

I believe the chief counsel of the subcommittee, Bruce Cohen, has made an attempt, and at this point I believe has had some contact with Mr. Rader's attorney.

Senator METZENBAUM. Do you know whether or not he has sought an opportunity to appear before the committee?

Senator SPECTER. I can answer that, Senator Metzenbaum. He was contacted by chief counsel, and he does wish to appear before the subcommittee.

We offered him an opportunity to be here today just to have the earliest opportunity, if he wanted to be here, making the time available and saying in addition that at the next hearing he would be given an opportunity.

He said that he would like to have 1 week's notice and we made an offer to meet with him informally before public presentation. Mr. Treanor was not under instructions to avoid talking to the director. But I think the appropriate thing would be not to wait until we had gathered sufficient facts to have something to say in a cohesive manner.

Senator METZENBAUM. Mr. Treanor, in your discussions did you talk with other children as well?

Mr. TREANOR. Yes, Senator, I did. I went to one of the institutions and spent several hours there, a fair part of it talking to the young people who are currently living there.

Senator METZENBAUM. Do you have an opinion as to whether or not conditions that are reflected in these four statements are typical of conditions as related to you by other children?

Mr. TREANOR. Senator, in my professional opinion, I could not say that they are typical. I did not take statements from these young people because they had particularly heinous things to report. I did, though, during a visit to the Taft Children's Center, receive recountings of other incidents, and two boys reporting to me the incident where Mike had his arm broken. They were at Whitaker at the time.

So these instances are well known to the young people in the juvenile institutions.

Senator METZENBAUM. Now, you started some runaway shelters yourself?

Mr. TREANOR. That is right, Senator.

Senator METZENBAUM. You have been the executive director of a national organization whose member agencies are runaway homes, foster care, and child care agencies?

Mr. TREANOR. That is right. I was the director of the National Youth Work Alliance for 6 years. And before that for 5 years I ran a direct service youth agency here in Washington, the Runaway

House. We had group homes, shelter homes, schools, foster care programs, alternative high schools.

So I am pretty familiar with community-based youth services as well as institutions.

Senator **METZENBAUM**. How typical would you say the situation in Oklahoma is as compared to some of the other States?

Mr. **TREANOR**. It is not—in my professional opinion, Senator, it is not typical. I have visited training schools from Minnesota to Finland, and it is not a typical training school. For one thing, I did not see a single delinquent the entire time I was in Oklahoma. So if it were typical of the situation in the United States now, as a result of the work that has been done under the authorization of the Juvenile Justice Act, I would not have seen any young people in institutions.

Senator **METZENBAUM**. How do you explain how the conditions such as this could exist, professionally? It is something that would have to be a part of the whole system? How do you explain it?

Mr. **TREANOR**. Well, once again, this is my professional opinion, that the State's philosophy of care and the State's priorities are not consistent with what I belive to be the best interests of children who, for whatever reason, have to be removed from their homes.

Senator **METZENBAUM**. Now, let me come back to some portion of the questioning that the chairman had included. As I understand it, all four of these juveniles had really committed no criminal acts at all?

Mr. **TREANOR**. No, Senator, these young children had been in trouble. I do not want to leave the impression that we are necessarily talking about young people who have not had problems. These are young people who had a stormy adolescence. However, many of them grew up in foster care, starting at very early ages.

Senator **METZENBAUM**. What is the age of each of the four children now, approximately?

Mr. **TREANOR**. Mike just turned 15 two weeks ago. Cynthia is 19, and Karen is 20. Delores is 18.

Senator **METZENBAUM**. What impact do you think these incidents will have on the chance for these people, these young people, now to have a full future? Do you think that the trauma of their stay in these institutions will be long lived?

Mr. **TREANOR**. In my professional opinion, these young people are traumatized by their experiences. They spoke repeatedly of being obeserved or spied on or peeped on or whatever, continuously, 24 hours a day, and they are having a pretty rough time of it.

Cynthia, for instance, is 7 months pregnant. She lives with her husband. Their sole income is food stamps. They have not another thing in the world. I have been to their house. I have seen it.

Senator **METZENBAUM**. In your professional opinion, do you think that these four young people, the juveniles, some of whom are no longer juveniles, could have been brought into full social and economic stream in a far different way so that they might be contributing to the system rather than possible becoming charges for the system?

Mr. **TREANOR**. Very definitely, Senator.

Senator **METZENBAUM**. Really what I am asking is in your evaluation of the people, if you feel that their future could have been a different one had the treatment in these institutions been somewhat different?

Mr. **Treanor**. In my professional opinion, there is no question about that. They all characterized these experiences as quite negative. I did not read the parts of the statements where they complained about schools, the caliber of the work in the schools, how unchallenging it was, their lack of stimulation, lack of vocational training.

Mike told me that one of his hobbies was hog raising, but he was not allowed to do any of that when he was in the institutions, despite the fact that they do have working farms that are run by the Department of Human Services at Taft and Whitaker. They are working farms. They are run by the State.

Senator **Metzenbaum**. Is it not the fact that the substantial cutbacks and, in some instances, total wipeout of some of the programs for juveniles may be pennywise and pound foolish in the long run?

Mr. **Treanor**. Senator, I really could not say. But in the case of Oklahoma, one of the things that struck me as unusual is that this department has very adequate funding as a result of—the two Senators will correct me if I am wrong—a 2-percent sales tax that goes directly to the Department of Human Services. And they seem to have very ample funding.

At Taft, for instance, they just spent $7 to $8 million putting up new buildings.

Senator **Metzenbaum**. Where are these institutions located?

Mr. **Treanor**. They are spread across the State, but they are predominantly in the eastern end of the State, around Tulsa. But they are not all there. There are a number of them.

Senator **Metzenbaum**. Mr. Treanor, your testimony is particularly informative and helpful. But I would just have to say to my good friends from Oklahoma, it happened to come on the wrong day. I think today is the day I read the story about how well Tulsa is doing and what a booming community it is. In this instance I guess they are not booming. Maybe it is the bust part.

Senator **Specter**. We will now turn to Senator Boren. We customarily alternate on one side of the table to the other, but I think in light of Senator Boren being the senior Senator for Oklahoma that Senator Nickles would not mind deferring his initial questioning.

Senator **Boren**. Thank you, Mr. Chairman.

Mr. Treanor, while you were there you went into several of these institutions like Taft and Whitaker and some of the others; is that correct?

Mr. **Treanor**. Senator, I was at the Oklahoma City shelter and I was at Taft. Those were the only two institutions I visited.

Senator **Boren**. When you interviewed these various people at Taft, for example—you conducted some interviews, I gather?

Mr. **Treanor**. I had some conversations, Senator. They were not in any of these statements. These statements were not taken at Taft.

Senator **Boren**. Did the State people cooperate with you once you identified yourself and wanted to go into one of the institutions?

Mr. **Treanor**. Yes, sir.

Senator **Boren**. If you wanted to talk to people alone did they allow you to do that?

Mr. **Treanor**. They were very good about it, Senator, yes, sir.

Senator **Boren**. Did you visit any of the group homes that have been established? You visited Taft, you visited the shelter. I gather at Oklahoma City that is the shelter where they are first put awaiting further action if they are brought there by the police or someone else.

Mr. **Treanor**. That is correct.

Senator **Boren**. Did you visit any of the group homes that have been established in Oklahoma City or Tulsa or elsewhere?

Mr. **Treanor**. No, sir, I did not. Because of my professional background I'm aware of them and I know of a number of the people that work in them and I understand they are very good programs.

Senator **Boren**. Mr. Chairman—one of the things I would like to see is a report on how Mr. Treanor feels those programs are working. I have some personal interest in them because I first started them and felt we should move in that direction, and I would really be curious to have Mr. Treanor's evaluation as this moves along as to whether the group home approach is working and should be expanded, as compared to the institutional approach.

Mr. **Treanor**. Fine, sir.

Senator **Boren**. I realize you have cited these incidents in question as allegations. You have taken statements from the people who have alleged that these things have taken place, and they certainly are terribly things. If even one of the incidents you've recited today took place in fact and action was not taken to correct it, that is one too many.

Did you interview, for example, on this one I just picked up, this first one of Mike, he refers to the Whitaker advocate defender Bob Mitchell. He refers to this Mr. Saxton coming down and talking. He refers to Mr. B and Mr. C who supposedly committed these acts. And then he refers to a Mrs. S, apparently sympathetically referring to her, because he says, "we had to knock it off because she might have seen this," and also, she's the one who checked his arm and so on. So apparently there is a sympathetic person there in his mind.

Did you go and talk with these individuals? Did you ask Mr. Saxton, "what did you do after you went over there?" Did you ask Mr. Mitchell, the advocate defender, "how did you take care of this case and why?" Or Mrs. S., who presumably would be here a sympathetic source?

Did you go to these? In other words, have you talked to both parties in all of these cases that have been presented?

Mr. **Treanor**. No, Senator, I have not. I did meet Mr. Saxton when I was in Oklahoma, but I did not discuss this particular incident with him. However, since I have all the official reports on that signed by Mr. Saxton in this case, there does not appear to be any disagreement about the facts, that the boy's arm was broken.

It was only through lack of time, Senator, that I did not pursue some of these instances and talk to people to seek their cooperation.

Senator **Boren**. Would you do that? It says Mr. Saxton spent an hour with this boy. Did you plan to talk with him and see what his impression was? After this hour, why didn't he do more if he thought more should be done?

Mr. TREANOR. I would await the instructions of the chairman.

Senator BOREN. On these, you seem to target out certain people that you sought out for interviews. What led you to these particular people? Did you just pick them at random or did you pick names from the institutions at random? Were they parties to the lawsuit?

There were references to the fact that they were later represented.

Mr. TREANOR. Later on picked up as plaintiffs. None of these young people are any of the eight original plaintiffs in the class action suit.

I spoke to these young people because I could find them. I tried to find a lot of other people. These people, they move a lot, they have different last names from their parents who they live with. I spent an awful lot of time trying to locate people who had been in the institutions to talk to, and it was difficult, Senator.

Senator BOREN. But how did you pick out these individuals?

Mr. TREANOR. I was able to finally reach them on the telephone. I found out where Mike was, that he was in the shelter in Oklahoma City. The other three I was able to reach on the telephone.

Senator BOREN. What led you to say you wanted to talk to Mike? How did his name come up?

Mr. TREANOR. It came to the attention of the subcommittee that a young man had had his arm broken in the incident I described and here was the report on it. So I used this as starting point.

Senator BOREN. How did that come to the attention of the subcommittee? I'm not asking you to divulge anyone's name. I don't want to know that.

Mr. TREANOR. It came to the attention of the subcommittee, Senator—I'm not trying to be smart. We're the Subcommittee on Juvenile Justice, people bring us into a lot of things.

Senator BOREN. Someone brought you this?

Mr. TREANOR. Yes, sir.

Senator BOREN. And said, here is a bad case and here's something you ought to look into?

Mr. TREANOR. That's right.

Senator BOREN. You mentioned files over in the Department. Have you requested any files or asked the Department to turn over the files or to interview certain people, in which you've been turned down by them at all?

Mr. TREANOR. No, to the contrary. I have requested a few documents, organizational charts, list of the nine Commissioners, Department of Human Services, et cetera. And I was given those. Most of those requests I directed at the Deputy Director of the Department, Mike Fogerty, and he was very cooperative.

Senator BOREN. How long did you spend in Oklahoma altogether?

Mr. TREANOR. Five days, Senator.

Senator BOREN. Five days?

Mr. TREANOR. Five full days.

Senator Boren. Do you plan now to go back and at least, either here or there, to ask the State officials to come in and interview some of these people?

Mr. Treanor. I await the instructions of the chairman on that, Mr. Senator.

Senator Boren. I appreciate that, Mr. Chairman. We again appreciate your invitation to be present.

I would only say, to repeat, that if one of these things happened it is one too many. I think it is something we all ought to be concerned about. I am convinced from the reaction of the Governor, the Attorney General, the legislative leaders across the board, and the leadership of the Department itself that they would certainly want to react to any constructive suggestions that flow from the subcommittee.

And I would hope that you would ask them to come in and answer these questions and ask them to work with this committee. And I, just as a matter of personal curiosity, Mr. Chairman, I would hope that you might ask the staff—not being a member of this committee, perhaps it is inappropriate for me to do so, but I just personally would be very interested in knowing your evaluation of the group home approach that we have begun in Oklahoma, not nearly as large as I would like to see it, as compared with the institutional approach.

I would really like to know how you think those kind of State institutions are now working.

Senator Specter. Senator Boren, we do intend to pursue those lines. The officials have been contacted. Preliminary arrangements have been made for them to come and talk with us both informally and to appear in public sessions.

You have a very distinguished record as Governor of Oklahoma in many ways, and one of them is with the group homes. The evaluation will be made by the subcommittee. We appreciate your suggestion on that.

Senator Nickles. Mr. Treanor, I have been a little bit troubled by some of the statements today that you have made on these people from a couple of standpoints. First, it seems to me that this hearing or your investigation is premature for the exposure that it is receiving today, because you have not visited with many of the high officials. You mentioned unnamed high officials, but, in my opinion that is inadequate.

You are giving somewhat of a black eye to the State of Oklahoma, which I resent, without further explanation and detail. Certainly, if there are these abuses we want them eliminated. If the way to eliminate it is to give them exposure, I am all for it.

But I listened to the testimonies, and I have not personally visited each one of these schools. I am going to be in, I think, Whitaker next week. Maybe that will help me. But if I heard you correctly you have not been to Whitaker, either.

Mr. Treanor. No.

Senator Nickles. But you did visit Taft. That was the only one out of the four juvenile delinquent centers that you did visit. But we are painting a very dark shadow.

Did you visit with the superintendent at Taft?

Mr. Treanor. Yes, Senator, I did.

Senator **Nickles**. Do you have his statement, his or her statement on these allegations? We had Cynthia saying there were fights and beatings. Somebody else said that there was drugs. One said that they were undressed and fondled.

What are their statements? We are only hearing one side. If that is the correct side, so be it. But it seems a little incomplete to me.

Mr. **Treanor**. Well, Mr. Wilbur Williams, the superintendent at Taft, I did not take a statement from. He was not the superintendent at the time that any of these things occurred. If the chairman of the subcommittee instructs me to do so, Senator, I would be very happy to do that.

On your earlier point, I would just like to say that the head of the Department reports to a nine-member Board of Commissioners. I attempted to reach a number of them. The chairman was unavailable until tomorrow. I did get one of the Commissioners on the phone. She refused to talk to me and said that she was watching television and she did not want to be bothered. And others simply did not answer their phone, Senator, when I called them.

Senator **Nickles**. Certainly I hope you or anyone else do not mistake my intentions to any degree, because if any of this type of nonsense is going on it needs to be stopped way before yesterday and as rapidly as possible. But here again, it seems to be so one-sided.

To give you an example, you're talking about Mike, this 15-year-old boy that had his arm broken. He mentioned he was fighting, he would not go to bed, and so on. I think you mentioned you had a statement from those two people that were involved in that scrimmage, and now they have been dismissed, possibly because this has been brought to light, I would guess, without really knowing any more.

You mentioned that they refused to take lie detector tests. Did you offer Mike a lie detector test, or any of these four?

Mr. **Treanor**. I did not, but Mr. Saxton, the chief State investigator, did. And he said he would be happy to take a lie detector test, I believe. I do not think he took one.

Senator **Nickles**. That is my real question. We have an Oklahoma State Bureau of Investigation that I believe is investigating this. We are talking about professional investigators. Are you a professional investigator?

Mr. **Treanor**. No, Senator, I am not.

Senator **Nickles**. Are we complicating or complementing their investigation?

Mr. **Treanor**. I believe we are complementing.

Senator **Nickles**. I would hope that we are, but I would want to make sure that we are. I have been involved in various investigations on labor corruption and we conduct very extensive investigations. But we do not have congressional hearings at the outset. We really try and get our work done and convictions placed and people dismissed or whatever actions are involved pretty well on the road, before we let some of those things be opened for public vision.

I just hope that we are not complicating anything. We have professional investigators. Maybe the State of Oklahoma has been lax. It is quite possible, and I am not saying that the institutions are innocent—as I said, I have not been in all of them. I hope to visit them in the near future.

But I am a little bit concerned. It looks like we have just kind of peaked into the tent and we have had some very serious allegations, extremely serious allegations. I am not even sure all of the ones that I have heard from the briefings, which your committee staff provided us, have all come out yet.

That bothers me. Prostitution rings or soliciting for prostitution and some of these other things are extremely serious and certainly need to be stopped yesterday. And people that are involved in that type of thing, as a minimum amount of punishment, should be dismissed. And, as I said earlier, some type of criminal charges, where they would be applicable, should be made.

But I am also, at the same time, a little bit concerned about you being in Oklahoma only as recently as Thursday and not having visited with many of the high officials. I would think any of the high officials in the welfare department would have no objection to having their name in testimony and on the record to be able to offer both sides.

Let me ask a couple of questions. On Ms. Briscoe, it was mentioned that when she went into Sand Springs, I believe into Taft, she was stripped and searched a couple of times. Does she have names for people that did this, so that we can see that they are not doing that again?

Mr. TREANOR. That particular young lady was the most reluctant of all that I took statements from to give names. She was just reluctant, Senator.

Senator NICKLES. So we really have no names to point to?

Mr. TREANOR. I do believe, though, if given the opportunity in the proper forum of investigation that she would be willing to do so.

Senator NICKLES. And Sand Springs, did you talk to the superintendent of the institution there?

Mr. TREANOR. No; I did not.

Senator NICKLES. It would be interesting to find out if that is normal procedure. Do they strip and search a couple of times all males and females? Is that normal?

Mr. TREANOR. I do not know, Senator.

Senator NICKLES. I do not know, either. She mentioned that somebody was continually making advances toward her sexually, exposing themselves, et cetera. Were there any names involved in that type of thing? Here again, maybe not for public disclosure before this committee. But some of this, if there was an employee—and I do not doubt that maybe this was the truth—if somebody was doing that, let us get rid of them.

Mr. TREANOR. She did tell me some of these names. She was not willing to have them in the statement. Her feeling—I am just reporting her feeling now—was that she would be bothered. I would have to look in here and get the exact quote, but that she would be harassed if she did that.

She also expressed concerns for her friends that are still in the institution. She just left August 4, 1981.

Senator NICKLES. I guess I just have some questions about which direction is best.

This one by Ms. Briscoe mentioned the particular name. It mentions a name, and I will not mention it because I am not sure that that would be the legal thing to do, who she said, rubbed my arm, touched my breasts, and so on. Now, I feel some concern for this person's family. Maybe this man is guilty, maybe he is not. Maybe she had a vendetta against him for whatever reason. I do not have any idea. I do not know either individuals.

But it seems very possible that this person could be persecuted by the press. I mean, it is quite possible that his name is going to be in the paper. This is in Taft. Maybe he lives in Muskogee. Maybe it is going to be in the Muskogee paper tomorrow.

And if it is true and it happened, then maybe that is OK. But if it is not true and it was not substantiated, then we could have inflicted a real embarrassment on his family, that was not warranted. Maybe it is, I do not know.

But I am just a little bit concerned about the lack of coordination with OSBI and others. I want this nonsense eliminated and eliminated just as quickly as possible. But only to have a few statements on a trip that you started on Thursday and concluded on Tuesday for a congressional hearing on Thursday, without having statements from people to be able to protect themselves might be trying and convicting them mediawise, et cetera, and in some cases may be complicating the investigations ongoing.

We need to get it cleaned up. I know we have State officials that are concerned about this. And certainly I think this committee and the U.S. Senate and the Congress want to eliminate any of this.

I would like to make a couple of other comments. Senator Metzenbaum, who is a friend of mine, and I agree on almost nothing when it comes to issues. In my mind, his earlier statements inferred that we are going to solve these problems by throwing money at them.

Do you think that Congress providing more money to States is going to solve this type of problem?

Mr. TREANOR. Well, Senator, since the Juvenile Justice Act was passed in 1975 the State of Oklahoma is the largest State in the Union that has chosen not to participate. They have passed up the opportunity to receive $4.3 million in appropriations that would have—that typically in other States were used to establish group homes and the kind of programs that mean you do not need institutions.

This year the Congress has appropriated what for Oklahoma's fair share would be $530,000 in fiscal year 1982, which they also will not receive.

Senator NICKLES. We have in the State of Oklahoma, as you alluded to earlier, an allocation that is about 97½ percent—maybe it was changed by the State legislature to 100 percent, I am not sure, of the State sales tax that goes into the welfare department, plus the matching Federal funds that the administrator or the head of the welfare department does a very good job in getting. He is not getting this one, but he is getting his fair share.

There is about $1.2 billion, maybe more, in the department. The State of Oklahoma has surpluses this year that are fairly large, in the $400-million range. So I do not really think a couple of million dollars is what caused this. This is incompetence of employees.

Mr. **Treanor**. It is philosophy here to some extent also, Senator, about whether these young people should be, young people should be in institutional care or community-based care.

Senator **Nickles**. Here again, the funding and what would or would not come from the Federal Government for these institutions is not really the question at all. Possibly the philosophy and whether or not we would go to greater community type homes needs to be resolved by the Oklahoma officials and the Oklahoma legislature. It is probably not for us to make it today.

But I would encourage you to have very close coordination with OSBI in this investigation and make sure that nothing we would do would impede or deter, in any way whatsoever, their investigation. Let us see if we cannot rapidly, as rapidly as possible, communicate with the leaders of these institutions, the superintendents, the people that are on the firing line, the head of the human resources department of Oklahoma, plus some of his other people that are under him, on the record.

And I do not mean just people saying, yes, this is the truth but I do not want names mentioned. If you are going to have an investigation, let us investigate both sides and expose the facts, not allegations that could be very damaging to the overall image of Oklahoma, which I think would be a misplaced image.

We are doing a lot of things. Senator Metzenbaum says there is a lot of going on. Tulsa is doing great. It has the lowest unemployment rate in the Nation. Oklahoma City has the lowest unemployment rate in the Nation. That is a positive thing. It is a positive thing for juvenile delinquents, maybe they can get a job, and we want to help them get those jobs and get out from this idea where, like the girl you mentioned, her only opportunity, and income after she got out of the institution was food stamps.

We are not looking for that type of solution. We want to help them to be able to help themselves and to have a moral society in Oklahoma, as well as throughout the Nation. And certainly I know that that is probably your interest. I just want to make sure that, as we coordinate our efforts here, that that is exactly what our ultimate goal is. We eliminate this type of activity.

Maybe the public exposure we have today will send some vibrations throughout the institutions on a very rapid scale to stop it today.

So possibly, Mr. Chairman, today's hearing will have that effect.

Let me ask you this: Is it your opinion that this type of abuse is still going on today?

Mr. **Treanor**. Mike in his statement refers to an incident on January 10, 1982. Today I could not speak to, of course.

Senator **Nickles**. You visited Taft?

Mr. **Treanor**. Yes, sir.

Senator **Nickles**. And there were several allegations about Whitaker. I do not remember seeing anything about Boley or Helena. Are those institutions under this black cloud, or are they being operated better?

Mr. **Treanor**. I do not want to agree with your characterization of black cloud, but they are also of interest in the work that we have undertaken in the subcommittee. We have reports on those institutions also.

Senator NICKLES. You think all the institutions in Oklahoma that deal with juvenile delinquent care are operating very poorly?

Mr. TREANOR. Well, none of the institutions I have been talking about today are—a little bit at the Sand Springs Center—for juvenile offenders. These are for status offenders and deprived young people. As you know, sir, Helena is the place where the delinquent boys are placed. I do not know——

Senator NICKLES. Let me ask you one other quick question. In your investigation you had some names you wanted to contact. Have you been working with the Gannett News Service? Have you read their reports on their investigation?

I am sure you are aware that they have had a couple of investigators working on this for several months now. Are you getting some of your information from them as to where to direct your efforts?

Mr. TREANOR. We have had, the subcommittee has had a number of people come forward with different things, and we have tried to pursue the appropriate kind of leads that we have been given.

Senator NICKLES. They have also conducted an investigation. Are you aware of that?

Mr. TREANOR. Yes, Senator, I am.

Senator NICKLES. The reports of which have been in the papers, the news service. Have you monitored that?

Mr. TREANOR. Yes, Senator, I have. I have been reading the newspaper.

Senator NICKLES. Has that helped to guide you as far as which direction you wanted to conduct your investigation in?

Mr. TREANOR. Not particularly. There are certainly tandem features. There are people, young people from whom I have statements, who are also mentioned in newspaper accounts.

Senator NICKLES. Have you visited with Mr. Sherwood or Mr. Hanachette from the Gannett News Service?

Mr. TREANOR. I have never met Mr. Hanachette or spoken with him. The other man I have had some contact with.

Senator NICKLES. Mr. Sherwood?

Mr. TREANOR. I have had contact with Mr. Sherwood.

Senator NICKLES. Not with both of them?

Mr. TREANOR. No; just with one.

Senator NICKLES. Did you ever conduct your investigations together?

Mr. TREANOR. No, Senator.

Senator NICKLES. Did they tell you that Taft would be the one for you to zero in on?

Mr. TREANOR. No. The young people related to me a number of incidents at Taft, and since it was not a facility for delinquents I thought it would perhaps be one that would be of more interest to the subcommittee than some of the others.

Senator NICKLES. Taft, as I remember Cynthia's statement, had a lot of drugs. I think I heard drugs three different times and I think they all related to Taft. Is that right? Karen White, Cynthia and——

Mr. TREANOR. Whitaker also.

Senator NICKLES. Whitaker also. So drugs were readily available. I think they mentioned cars would drive by and they could go out and get their pills or whatever kind of——

Mr. TREANOR. Marihuana, LSD, that sort of thing.

Senator NICKLES. There is a song, "they do not smoke marihuana in Muskogee," and Taft is right next to Muskogee. They are going to have to change that song.

Mr. TREANOR. I did hear the farmer's report at 6 a.m. yesterday and the man related that the second largest cash crop in Oklahoma was marihuana.

Senator NICKLES. I would contest that.

Mr. TREANOR. That is what the man said on the television station. I would not have any way of knowing, Senator.

Senator NICKLES. Was that in Oklahoma?

Mr. TREANOR. Yes, sir, it was. Yesterday morning, the wheat report man, whoever.

Senator NICKLES. Wheat just barely outpaced marihuana?

Mr. TREANOR. Just barely, that is what he said. [Laughter.]

Senator NICKLES. I seriously doubt that. We have enough black eyes that have been coming out from this report. We do not need that one on the front page of the Muskogee paper. That might really upset some people on Main Street.

Mr. Treanor, hopefully the results of this investigation will be to eliminate some of this. And certainly you will have the cooperation of our office and I think that of Senator Boren. Anything that we can do to eliminate this type of abuse, we are interested in doing. Also, we are interested in providing fair and adequate protection for those individuals at those institutions that are operating fairly and justly. And I think they do deserve adequate time to be able to present their side of the story, and so we look forward to giving them a chance to clear their name. Their goal should be to provide quality care for youngsters that will help lead them in the right direction, certainly not in the wrong direction.

Thank you very much.

Mr. TREANOR. Thank you, Senator.

Senator SPECTER. Thank you, Senator Nickles.

I had not wanted to interrupt you, Senator Nickles, as to the line of questioning. But there has been a substantial amount of investigation by the subcommittee beyond what Mr. Treanor has testified to. Mary Louise Westmoreland from counsel staff is prepared to testify from a long series of incident reports which are corroborative of what Mr. Treanor has testified to on specific cases, reports from the Department of Human Services from the State of Oklahoma.

I only disagree with you on one thing you said, Mr. Treanor, that you are not a professional investigator. You have spent 6 years on the National Youth Work Alliance. You have a master's degree from Harvard, and you have done extensive work in delinquency, crime prevention, and youth activities. And I would have to disagree with your conclusion that you are not a professional investigator.

When Senator Nickles asked about the appropriateness of the strip searches, they are not appropriate, Senator Nickles. Before coming to the Senate, I was a professional investigator for a long while and district attorney of Philadelphia, and strip searches are not appropriate under any circumstance in this kind of a situation.

But I do think that what you raise with respect to the question of fairness is well taken, and I think when Ms. Westmoreland testifies from the records there will be a basis laid for the kind of exposure which has been given here today, which in my professional judgment is necessary and will be of aid in the investigation by the Oklahoma State Bureau of Investigation, and certainly important for this subcommittee and for the full Committee on the Judiciary to be in a position to know what to do from this step forward, because the issuance of a subpena is a matter for the full committee and we have to have a record basis for what we propose to do.

Senator Boren wanted to follow up on a question.

Senator **Boren**. I just wanted to ask a couple of followup questions based upon what Senator Nickles asked, just for clarification.

With regard to individual employees that have been accused of wrongdoing in these incidents, I realize you had access to records about their response or whether they were questioned or whether they took lie detector tests. You questioned the people who made the accusations personally, at least some of them.

Did you personally question any of these employees who are accused by these four people in the statement you have given today? Did you personally interview any of those who were accused in these incidents?

Mr. **Treanor**. No, Senator, not any of them.

Senator **Boren**. Not a single one?

Mr. **Treanor**. Not a single one.

Senator **Boren**. In terms of the reason for the State—making the ongoing decisions from year to year—to not apply for certain Federal funds which could have possibly been available. I have not followed what the State has done in the last 4 years. I do know that in the case of group homes, they were 100 percent funded back several years ago.

But we have, I believe, still in existence the Oklahoma Crime Commission, which is the clearinghouse organization which makes the decisions as to which Federal grants to apply for. Did you contact the director of the Oklahoma Crime Commission or the staff of the Oklahoma Crime Commission to inquire of them their reasons why Oklahoma is one of, I believe what, five or six States—five?

Mr. **Treanor**. Six now, I believe, Senator.

Senator **Boren**. Six States that have not applied for these funds. Did yo inquire of them as to their reasons? I think they have had meetings on the subject and undoubtedly have minutes of their meetings or statements. Did you inquire of the director of the crime commission as to why they made that decision?

Mr. **Treanor**. No, Senator. I just looked at the things available in the public record in terms of financial information, that sort of thing.

Senator **Boren**. You did not look at the crime commission minutes, that sort of thing, as to why they had not applied?

Mr. **Treanor**. No, sir.

Senator **Boren**. I think that would be instructive. I know one of the chairman's hopes here is to determne if any changes need to be made in the act to make those programs attractive to those States that have not applied so that we might see that all of the States take advantage.

I would hope, Mr. Chairman, you might also consider in the future asking some of those from the crime commission staff, which I think is the responsible State agency, as to what motivated them to not take up these Federal funds.

Senator SPECTER. Senator, that is a question very much on my mind, because it is unusual not to take up the provisions of the act, and there may be an issue of appropriate action by the Congress on having certain requirements, whether or not they take those specific funds.

Senator Nickles pointed out there are other Federal funds involved. But that is a very important question.

Senator BOREN. Again I want to thank you, Mr. Chairman.

Senator SPECTER. Thank you, Mr. Treanor.

Ms. Westmoreland, would you step forward, please?

STATEMENT OF MARY LOUISE WESTMORELAND, COUNSEL TO THE SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Would you state your full name for the record, please.

Ms. WESTMORELAND. Mary Louise Westmoreland.

Senator SPECTER. Are you staff counsel for the Juvenile Justice Subcommittee, Committee on the Judiciary, U.S. Senate?

Ms. WESTMORELAND. Yes, sir.

Senator SPECTER. How long have you been so employed?

Ms. WESTMORELAND. Since October of 1981.

Senator SPECTER. You are a member of the bar of what State?

Ms. WESTMORELAND. I am a member of the bar of the District of Columbia and was admitted to the bar in Georgia in 1977, as well.

Senator SPECTER. All right. Have you had occasion to examine reports of the Department of Human Services of the State of Oklahoma, official reports?

Ms. WESTMORELAND. Yes, sir.

Senator SPECTER. And how big a volume of reports have you examined?

Ms. WESTMORELAND. I have personally looked through between 100 and 200 of these reports.

Senator SPECTER. Are you prepared to testify this morning about certain incidents from those official reports.

Ms. WESTMORELAND. Yes, sir.

Senator SPECTER. Would you proceed to do so.

Ms. WESTMORELAND. The abuse reports I am going to be talking about come from various institutions. I am going to be covering reports from Helena, Boley, as well as Taft.

Senator SPECTER. Pull the microphone a little bit closer.

Ms. WESTMORELAND. The first report is a report dated April 23, 1980. It is addressed to Lloyd E. Rader, director of human resources, from John Leitka, coordinator, bureau of institutions, attention to R. Chase Gordon, coordinator, subject Boley, Mr. C, social worker, alleged sexual involvement with a juvenile.

Senator SPECTER. Now, this is always a difficult question when you talk about naming names or not naming names. If you do not name names you are too vague. If you do name names you may be exposing people to inappropriate comments.

I think in light of the question raised by Senator Nickles that it may well be preferable at this point to omit the names of any of those who have been identified unless, in the context of that report, they have been questioned and have had an opportunity to give their response. So let us bypass that.

We do run the risk by not naming the names of perhaps raising a question of everyone who might have been in a position to have done that. But for these purposes let us avoid the names.

Ms. WESTMORELAND. Shall I use first names?

Senator SPECTER. No, let us just avoid the names.

Ms. WESTMORELAND. All right.

I would like to read from the report:

> A juvenile was interviewed at Boley regarding sexual involvement between an employee and a juvenile. The initial information was received by the superintendent from the juvenile. The juvenile reported observing Mr. C, social worker, performing oral sodomy on another juvenile during a recent boxing trip. Upon conclusion of the——

Senator SPECTER. What kind of a trip?

Ms. WESTMORELAND. A boxing trip.

> Upon conclusion of the boxing tournament at Chilicco, they proceeded to return to the institution, but decided to spend the night in Ponca City when it began to snow. The group checked into the Thunderbird Inn Motel—this action was authorized by the superintendent. Those making the trip were [and they list four juveniles and the social worker].
>
> When the television programing ended after midnight, sleeping arrangements were discussed since there were only two double beds and five people. One juvenile volunteered to sleep in a chair and refused to sleep with another person. It was then decided that two juveniles would sleep together and the social worker and another juvenile would take the other bed.
>
> At approximately 3 or 4 a.m., one juvenile reported being hit by a banana peeling thrown by another juvenile and were on the verge of "horseplay" when one of the juveniles said, "psssst," and pointed toward the social worker and another juvenile—they were "having sex."
>
> The juvenile reporting the incident indicated a willingness to submit to a polygraph test and claimed that the other two boys involved could confirm the incident.

Senator NICKLES. Could I just ask, is that social worker still employed?

Ms. WESTMORELAND. It was our information he was fired this week for tardiness.

Senator NICKLES. This complaint went in April 23, 1980?

Ms. WESTMORELAND. Yes, sir.

Senator NICKLES. So almost a year later he was fired? Is that correct? Have we been able to confirm that? It seems like the Department could tell us.

Ms. WESTMORELAND. It is my understanding that Mr. Treanor spoke with the social worker involved and that was his report to Mr. Treanor, that he had been fired this week for tardiness.

Senator SPECTER. What investigation—go through that.

Ms. WESTMORELAND. OK. After this initial report there is another report that is a request from Chase Gordon, coordinator, to Mr. Rader, attention of Wesley Rucker, inspector general, asking for an official investigation of the incident.

The next document I have is dated May 29, 1980. It is from Mr. Rucker, inspector general, to Mr. Rader, attention Chase Gordon, and states as follows:

"A polygraph examination was conducted on the social worker on May 15, 1980. Copy is attached. The examination indicated strong and consistent positive deception."

Senator SPECTER. What did the polygraph show, again?

Ms. WESTMORELAND. "Strong and consistent positive deception."

Senator SPECTER. Strong and consistent positive deception?

Ms. WESTMORELAND. Yes.

Senator SPECTER. All right.

Ms. WESTMORELAND. There is another report, dated July 2, 1980, from Mr. Rucker again writing to Mr. Rader, reporting on the polygraph given to the student who was allegedly involved in the act. And it says:

> A polygrapy examination was conducted on the student on May 19th, 1980. Results of this examination are attached. The examination indicates the juvenile was truthful when stating that the social worker performed an unnatural sex act on him.

Senator SPECTER. Do those reports, to follow up on what Senator Nickles asked about, do those reports show what disciplinary action, if any, was taken against the social worker?

Ms. WESTMORELAND. They do not show.

Senator SPECTER. Proceed, please.

Ms. WESTMORELAND. The next set of reports came from the Taft campus. The first is dated October 1, 1981. It is a request—it refers to a request from the superintendent at Taft for assistance from the department inspector general's corps in tracking down a problem they have been having with girls running off AWOL from campus and being involved in sexual activities in the town of Taft.

That generated the reports that I am going to discuss in more detail that follow.

Senator NICKLES. Could I just ask, are you starting to leave this one?

Ms. WESTMORELAND. Yes; I am through with——

Senator NICKLES. Have we had any contact from the department? Was this social worker suspended without pay during this time? It seems like that would be at least the minimum amount the State should——

Ms. WESTMORELAND. The records do not show that. I just do not know. They do not show. It is entirely possible that what we have are not the complete set of records. I am not trying to make that claim. I am saying the information we have does not show what happended with them.

Senator SPECTER. Senator Nickles, I think Mr. Treanor can shed some light on this at this time.

Mr. TREANOR. Yes, Senator, I spoke with the gentleman in question here on the telephone. He reported——

Senator SPECTER. He identified himself as being that man?

Mr. TREANOR. Yes, Senator, he did.

Senator SPECTER. You called the location. You were advised that was his residence?

Mr. TREANOR. Yes, Senator, I have that telephone number. He told me that he was transferred from Taft to the Rader Diagnostic and Evaluation Center shortly thereafter. He also related to me that he was——

Senator **SPECTER**. Did you question him about this allegation and incident?

Mr. **TREANOR**. Yes, I did.

Senator **SPECTER**. What if anything did he say to you?

Mr. **TREANOR**. He did not really address it, Senator.

Senator **SPECTER**. He did not answer your questions?

Mr. **TREANOR**. He did not really respond.

Senator **SPECTER**. Then you asked him whether he had been disciplined or transferred or suspended?

Mr. **TREANOR**. He told me that he had changed jobs. And I asked him, well, did you actually change houses, move everything? He said, yes, he had. He moved up to Sand Springs, Tulsa, whatever.

Senator **SPECTER**. But he continued in the employ of the department of human services?

Mr. **TREANOR**. Without any interruption.

Senator **NICKLES**. Without any interruption of pay whatsoever?

Mr. **TREANOR**. That was my understanding.

Senator **SPECTER**. What did he say?

Mr. **TREANOR**. However, he told me that he had that very day been called in by the superintendent of the Rader Disagnostic and Evaluation Center and told that, as a result of his being tardy, which he denied to me he had ever been tardy or whatever, that he was being fired effective immediately.

He then went on to relate to me that he had been told by that superintendent that the reason he was being fired was because of the newspaper stories.

Senator **SPECTER**. Had there been a public disclosure of this incident with his name identified in the public media?

Mr. **TREANOR**. Yes; it had been in the Muskogee Phoenix the day before.

Senator **SPECTER**. That is that series?

Mr. **TREANOR**. Yes, sir.

Senator **SPECTER**. What day did you talk to him?

Mr. **TREANOR**. Monday night.

Senator **SPECTER**. Any further questions?

Senator **BOREN**. I would like to ask a question. Here are these reports, I notice they are addressed to Mr. Rader, but they come in attention to various people. I gather that is routing. That is like our offices; 500 letters a day come in addressed to us and they generally get routed here and there for action.

Chase Gordon here, Wesley Rucker issued some of the reports. I see Mr. Saxton, some of them were to his attention again.

Have you talked again with Mr. Rucker, Mr. Gordon, Mr. Saxton, to ask them if the actions reflected here in the record were the only actions taken, or why they took these actions, or why they did not do more? Have you talked personally with any of these people to ask them why these records are as they are, and if they are accurate, and why did they take the actions or lack of actions?

Have you interviewed any of them and taken these documents to them as they have been presented here today and said, why did it happen?

Mr. **TREANOR**. No, Senator, I have not.

Senator BOREN. Mr. Rader has not talked with you directly so I assume you have not asked him, "did you see these?" So you do not know. But you have not talked to Mr. Rucker about them or Mr. Saxton or Mr. Gordon?

Mr. TREANOR. No, sir.

Senator BOREN. Were these records requested officially from the department, Ms. Westmoreland? And were they handed over to you by the department based upon an official request?

Mr. TREANOR. No.

Senator BOREN. They were obtained by you by other means, these records?

Ms. WESTMORELAND. Yes, sir.

Senator BOREN. Rather than through official channels of request?

Ms. WESTMORELAND. Yes, sir.

Senator BOREN. Are you therefore certain that they constitute the full and complete files of the department on the subject? Have you requested, asked the department, is this a full and complete file on this particular case?

Ms. WESTMORELAND. No, sir, I have not. That is what I was trying to explain to Senator Nickles. I am not representing that this is a full file.

Senator BOREN. So at this point we do not know if this is the full file on the disposition of these cases, since we have not made an official request of the department?

Ms. WESTMORELAND. That is correct.

Senator BOREN. Do you have any reason to believe the department would not respond to an official request to turn over the copies of the files?

Ms. WESTMORELAND. No, sir, we do not.

Senator BOREN. Mr. Chairman, with all due respect—and this follows on what Senator Nickles has said—you and I are lawyers, and Senator Nickles has expressed sensitivity here to this. It does seem to me rather strange that we would be having an open session on this.

Until these kinds of requests are made, until we know whether or not what is being discussed is a full file, until we have statements back as to why this happended or did not happen, I must admit that from the point of view of a lawyer I am rather concerned about this. I am wondering why. Did you start from the assumption that the State would refuse to cooperate? And if so, I think that is a rather strange and rather negative assumption from which to start.

Senator SPECTER. Senator Boren, there has been no such assumption. There are, as Ms. Westmoreland has testified, some 200 files which have all the appearance of completeness. And on the ones that are being testified to as illustrative here, there has been contact with the individual named, so that where the file does not contain any disposition of disciplinary conduct there is a statement by the individual himself, appropriately authenticated by standard legal procedures, identifying the number, identifying the person who answers the phone at that locale.

So that there is a sufficient basis to proceed, in my judgment.

Senator **Boren**. It would seem simple, Mr. Chairman, though, to take this first case and telephone the department and say: We have this file with the following documents in it, we are getting ready to present it in a hearing. Is this the full and complete file in this particular case?

If the State would refuse to confirm it or not confirm that, then I know they would sure hear from me about it, because I think they should be completely open with the committee and supply anything the committee wants.

But it does seem to me strange that, as I hear, there has not been an attempt to officially verify or request official copies of the files.

Senator **Specter**. Well, Senator Boren, that is my judgment. This file, in conjunction with the others which we have obtained, have all the appearances of being full and complete files.

Senator **Boren**. I agree they do.

Senator **Specter**. I have examined a great many files, and I have examined these and these have all the indicia of being full and complete files. We have the followup, and as you know we made these available to you and to Senator Nickles for your perusal and for your questioning in whatever manner you see fit as this testimony is going forward.

Senator **Boren**. Mr. Chairman, I just raise the question as a matter of attitude and assumption, because I have heard here—and this goes back to what Senator Nickles said—I have heard that every request to State officials they have been forthcoming, at least in terms of letting people go into the institution, letting Mr. Treanor talk to people, talking to them alone if he wanted to.

I presume that the same cooperation would have been in evidence had official copies of files been requested or had Mr. Saxton been called for an interview or Mr. Rucker or all these people named here. And I am just a little puzzled as to why they were not.

I wonder if the staff—let me ask this question. Do either one of you have any feeling, since you have not consulted any of these people, that they would not be candid with you or that they would not be cooperative with you, or that they would react with hostility or a refusal to cooperate?

Since you have not contacted them, is it because you have reason to doubt that they would be cooperative in turning over official files or making themselves available for official interviews?

Senator **Specter**. Mr. Treanor, did the individuals, your contacts with individuals you have identified, give you any sense on the part of those individuals as to their willingness to set forth all this information?

Mr. **Treanor**. Of the people, the State employees that I spoke with, there was a great reluctance to be identified, and there was a feeling that—on their part, that perhaps all of the information that the subcommittee might want would not necessarily be forthcoming.

Senator **Specter**. We are about 12 minutes into a 15-minute vote at this point, and we will return to this subject and we will be available to pursue it in any way you like when we reconvene. We will reconvene very briefly, just as long as it takes us to go vote and come back, within 5 or 6 minutes.

[Recess.]

Senator **Specter**. Ladies and gentlemen, we will resume. We were gone longer than the 5 or 6 minutes as announced because there were two votes, not one, which we waited for to vote a second time before coming back.

Senator **Boren**. Mr. Chairman, we had a brief discussion as we were walking over to vote, and I want to clarify to you—and I think it ought to be in the record—that I think that this subcommittee certainly should have every right to proceed to look into these allegations. I hope that nothing that has been said today gives you, or any of the members of the staff, any feeling that I do not think that you should proceed.

I think you should vigorously proceed and determine all the facts, and I certainly think that the allegations themselves—the weight of the allegations themselves—that have been brought forward this morning gives a very sufficient basis to you, I would say a mandate to you, to proceed; and that you should proceed and try to uncover all the facts.

As I said in the beginning, I am very concerned about it. As I sit here and listen to this testimony, and it has been very, very shocking, the kinds of incidents that have been alleged. These statements have been given. They have been sworn statements. They have been given to your staff members, and I certainly think that we should proceed, and that you should proceed, and that we should get to the bottom of all of it, and that we should also examine the philosophy on which this approach is based.

I want to make it clear to you that I certainly think you are conducting yourself properly, Mr. Chairman, in pursuing these questions. And I think the members of your staff have conducted themselves properly in pursuing the kind of questions that they have. They have a difficult task.

The only point that I wanted to make is that there should be an opportunity for those, including the individual employees who have been accused, to state their case. That is a matter of innocent until proven guilty, so to speak. And that the State officials I think definitely should be called in.

And you as chairman have already, at the very outset of the meeting today, indicated that that is going to be the procedure. That is the right procedure. And I just hope, Mr. Chairman, that as we have gotten into these individual questions as we have gone along that we have not lost sight of the fact that what you are doing here is proper, and that we support your efforts in this regard, and that we want you to proceed full speed ahead and get to the bottom of all of this because we want it corrected—not only in Oklahoma, but everywhere in the country.

I hope that we will come up with some suggestions that will enable us from a Federal point of view to make changes in the law, or do whatever else we need to do to encourage the proper approach to the treatment of juveniles and to try to prevent these things from happening.

So I want to tell you, again, that I think you are conducting yourself very fairly. I think the members of the staff are conducting themselves fairly, and I hope that no one involved will interpret our questions, or the additional information that we think should be developed to be anything but supportive of what you are trying to do.

Senator **Specter**. Would you proceed, then, Ms. Westmoreland, please?

Ms. **Westmoreland**. All right. The next report I am going to read from is a report dated November 25, 1981, from Charles Garrett, Inspector General, to L. E. Rader, Director of Human Services, attention: Wesley D. Rucker, Division of Institutional Community Services.

This is a followup on the October 1 investigation where investigators from the Inspector General's Office went to the Taft campus at the behest of the superintendent of Taft. In this report it states:

> During the course of the investigation at OCC, investigators developed information that Mr. A had been charged on August 26, 1976, in San Francisco, California, under SF 76-004969——

The gentleman in question is a security officer at Taft. I should add that.

> Forcing the victim to commit the act of oral copulation. San Francisco Police Department records indicate that the gentleman admitted these acts, but was given immunity to testify against a companion who was also charged with two counts.

Senator **Specter**. Now is what you have testified to in a concluded legal proceeding?

Ms. **Westmoreland**. This is a report by the Inspector General's office reporting that they had received information from the San Francisco Police Department that——

Senator **Specter**. That those charges had been lodged in an official proceeding?

Ms. **Westmoreland**. Yes, sir.

Senator **Specter**. All right. I do not think you have violated the rule, then. Perhaps inadvertently you have not violated the rule. If it is an official report, I think that is an appropriate basis. It is a public record. But for purposes of safety, please do omit the specific names.

Ms. **Westmoreland**. The gentleman-in-question's testimony was essential to the prosecution of the other defendant, In a statement taken from a young lady, she told investigators that the security officer had propositioned her several times.

In a transcript of a taped interview with another girl, she stated that on November 4, 1981, the security officer had called her to the campus control office. He asked her if she wanted to prostitute for a "sugar daddy." The security officer knew some guys outside that would not mind paying for her.

The security officer asked the girl if she knew another gentleman from Oklahoma City. The security officer stated that he had been told that some guys would "sugar daddy" to have her. The girl stated that she had previously met the gentleman referred to in Oklahoma City who worked some prostitutes, including some juvenile runaways from the Oklahoma City Children's Shelter. The girl was scared by these comments, as she talked to no one about the gentleman in Oklahoma City.

This report also reports that the security officer involved had been accused by another—there are allegations made by another student that the security officer had taken concaine from him but had not turned it over to authorities.

The security officer denied both making the statements about the prostitution, and he also denied taking the cocaine improperly.

The report continues to say: "The security officer agreed to take a polygraph concerning his denial of the allegation and former charges made against him." I have a memorandum dated December 30, 1981, to L. E. Rader from Charles Garrett, inspector general, attention to: Wesley Rucker, that discusses a polygraph that was administered to the security officer.

The polygraph investigated questions of the former charges, investigated the allegations concerning the drugs and the prostitution, and states: "In the examiner's opinion, Mr. A showed significant signs of deception."

The other individual that the investigation at Taft focused on was a recreational worker. The investigation of that is detailed in a memo dated November 25, 1981, to Mr. Rader from Charles Garrett, attention Wesley Rucker. That memorandum states:

> In a statement provided to investigators by a staff member, the recreation worker was identified as being a drug dealer to the students on campus. The staff member stated that she could not verify this, as information was told to her by several students that had been in her office.
>
> The staff member did not wish her name used, as she knows of people who have had their houses burned for such. In transcripts of taped interviews with students, two students told investigators they had witnessed the sale of several marijuana cigarettes, joints, to one student by the recreation worker. Several other students stated that they had heard that the recreation worker sold joints to students. Although they claim not to have made such purchases personally, both stated that they had shared a joint with another student who claimed to have gotten the joint from the recreation worker. The recreation worker denied the charges.

In a memo dated December 30, 1981, to L. E. Rader from Charles Garrett, attention Wesley Rucker, a polygraph was apparently given to the recreation worker that states:

"The examiner concluded that the recreation worker was being deceptive in regard to the target issues."

Senator **Specter**. Proceed, please.

Ms. **Westmoreland**. The next——

Senator **Boren**. Was there any action taken against that employee, according to the record?

Ms. **Westmoreland**. According to the record, there is not. Mr. Treanor has information on that.

Mr. **Treanor**. Senator, it is my understanding that the two gentleman in question in these incidents were fired on Tuesday.

Senator **Boren**. This past Tuesday?

Mr. **Treanor**. That is right, Senator.

Senator **Nickles**. Were their names entered in the press accounts that have recently come out?

Mr. **Treanor**. Senator, I am not sure. I just do not remember.

Senator **Boren**. This incident occurred when? They were fired Tuesday?

Ms. **Westmoreland**. This was the fall of 1981.

Senator **Boren**. The fall of 1981.

Senator **Specter**. Proceed, please.

Ms. **Westmoreland**. The next incident involves the Helena School. It is a memorandum dated December 1, 1979, addressed to

L. E. Rader from Chase Gordon, subject: Alleged improper handling of student at Helena State School. Also with that, we have excerpted testimony from a deposition taken in connection with a lawsuit pending in Oklahoma.

This report and the testimony from the disposition suggest that a superintendent at Helena kicked a young man in the head while the student was handcuffed and chained on the floor. I have reviewed a tape where the person who is accused discusses the incident. He admits that the student was handcuffed and chained on the floor, but contends that he put his foot on the floor and touched the student's head to keep the student from banging his head against a desk.

Senator SPECTER. Proceed, please.

Ms. WESTMORELAND. The next report comes out of the Boley school.

Senator BOREN. Excuse me. Was anything done about that individual who did this?

Ms. WESTMORELAND. The individual in question is no longer superintendent at Helena. He is now a psychologist at one of the State schools for the retarded.

Senator NICKLES. Was that as a result of this incident?

Ms. WESTMORELAND. I don't know.

The next report is dated July 2, 1979, addressed to Mr. Rader, director, from Ralph McReynolds, advocate defender, Boley State School for Boys, attention Chase Gordon. It is an abuse investigation of a young man and it reads:

> The child registered a complaint with the Advocate Defender at Boley on June 26, 1979, at 12:40 p.m. The student was alleging that a youth guidance supervisor had kicked him, choked him with a pair of jeans, picked him up, and threw him down at approximately 6:30 p.m. on June 25, 1979.
>
> According to the student, he was taking a shower and he and another student started throwing shampoo bottles at each other. He threw a shampoo bottle at a student and hit him in the head, at which time the student told Mrs. Copeland—who is another staff member.
>
> Mrs. Copeland called the shift chief's office for assistance and they sent the youth guidance supervisor down. While the youth guidance supervisor was coming down, the student had gone to his cubicle. The student stated that the youth guidance supervisor came to his cubicle and told him to come on, and he asked, "What for?"
>
> The youth guidance supervisor told him, "Don't ask me anything, just come on." At that time the student stated that the youth guidance supervisor grabbed him by the shoulder to pull him out of the cubicle, and kicked him on his right thigh.
>
> According to the student, as he walked toward the door the youth guidance supervisor grabbed a pair of jeans he had in his hands and wrapped them around his neck and started choking him. The student stated that he gagged a couple of times, and the youth guidance supervisor took the jeans from around his neck, and at that time picked him up in the air and slammed him down on the floor on his back.
>
> Then the youth guidance supervisor picked him up and took him to detention. He stated that he did not resist at any time. He listed four students as witnesses, but stated that almost the entire cottage saw the incident.

The report then continues with reports from the other juveniles who witnessed the incident, and then it gives the youth guidance supervisor's version, which I will read:

> On June 26, Mr. R. L. Doyle, [who was the superintendent at Boley] and this Advocate inteviewed the youth guidance supervisor. The youth guidance supervisor gave the following account of the incident: The youth guidance supervisor indicated that he had been sent to Truman Cottage by the shift chief as a result of the request by the staff on duty, Deborah Copeland, who indicated that she needed some assistance with some students in the dorm.

> According to the youth guidance supervisor, he grabbed the student from behind and attempted to pick him up in a basket hold, but the student was wet and slippery and he dropped him to the floor. He also stated the he placed a pair jeans around the student's neck, trying to get him to put them on, but at no time did he choke him. He also stated that he never kicked the student.
>
> On June 26, 1979, Mr. R. L. Doyle and this Advocate interviewed Mrs. Deborah Copeland, staff. Mrs. Copeland gave the following account of the incident: Mrs. Copeland stated that she had called down to the shift chief's office as the student was not minding her. And the youth guidance supervisor came down to get the student.
>
> Mrs. Copeland stated that she heard the student and the youth guidance supervisor arguing, but she did not know what they were saying. Mrs. Copeland stated that the youth guidance supervisor pulled the student out of his cubicle, and all the student had on was his underwear.
>
> The youth guidance supervisor then kicked the student in the rear. When they got down by the desk, the youth guidance supervisor put a pair of jeans around the student's neck and pulled on them. The student guidance supervisor pulled the jeans from around his neck and picked him up in the air and slammed him down on the floor on his back. Then he jerked him back off the floor and made him walk out the door. The student acted like he was hurt. I don't know whether he was or not for sure. If someone did that to me, I'd know I'd be hurt. I do believe the student was hurt.

The next part of that file is a memo dated June 27, 1979, to Mr. Rader from Mr. Doyle, who was the superintendent at Boley, who states that: "He has no recommendation at this time because there is some contradiction in the reports." He says,

> However, should the allegations be confirmed, I will recommend termination and possibly the filing of formal charges in the county court against the youth guidance supervisor.

The next piece of the file is the advocate general's report which states:

> The youth guidance supervisor has been relieved of his duties pending further investigation into the incident. Reports and recommendations are needed from the superintendent and the DIS supervisor. In view of available information, disciplinary action, possibly termination, appears to be warranted.

And the last piece is an undated report that states that the youth guidance supervisor was terminated.

The next set of reports come from the Helena school. These deal with unnecessary roughness and unnecessary force in the use of restraints. The first——

Senator SPECTER. How many reports do you have there?

Ms. WESTMORELAND. I have got, oh, probably five more.

Senator SPECTER. All right. We are running close—it is 12:24 now, and we are going to be having a series of votes, it appears, because of proceedings on the floor. Would you summarize the import of the reports?

Ms. WESTMORELAND. All right. There are two reports that deal with the chaining of a student and intentionally placing handcuffs on him too tightly, and chaining him in a belly chain. Although it was recommended that—this involves the same employee. Although there was a recommendation that the employee be terminated after the first incident, the second incident which happened a few days later still involved the same employee.

Senator NICKLES. Was he terminated?

Ms. WESTMORELAND. He was terminated, finally.

There is a report of a youth guidance supervisor at Whitaker in 1979, saying that they need to take action because of several complaints, and then it lists complaints running from March 1977 through 1978, various sorts of abuse where nothing was done, apparently, until January 1979, and we do not have a disposition. I do not know what happended to the employee.

There is a report that happended March 28, 1979, where a student who was described as "12 years old, a small boy," was hit on the head by a staff member. When it went up through the chain, the first recommendation by the first person who reviewed it was: If the story is true, perhaps we should take this staff person and put him someplace that does not involve child care.

It went on up the chain and the highest-level recommendation that we have a record of is: Well, I think he should be terminated. We then have a report 2 months after that where the same person is still on the campus and is accused of pulling a knife on a student.

Senator SPECTER. How many reports did you examine in total?

Ms. WESTMORELAND. Between 100 and 200.

Senator SPECTER. And how many of the installations were involved in those reports?

Ms. WESTMORELAND. Every one, the Rader Center, Boley, Helena, Whitaker, Taft, and Girls Town.

Senator SPECTER. And are the reports which you have testified to so far today illustrative of a pattern which you have seen throughout the totality of the reports which you have examined?

Ms. WESTMORELAND. They are.

Senator SPECTER. Senator Metzenbaum?

Senator METZENBAUM. Mr. Chairman, I had to leave to go to another hearing, which was also an interesting hearing but not nearly as provocative.

I just wanted to respond to my good friend over there, whom I understood saw fit to indicate that I thought that the solution was to throw money at the problem; and that is not the solution.

Well, I would have to agree with you. That is not the solution, because the testimony has already indicated that Oklahoma has an adequate amount of funding. I recollect you said there was a 2-percent tax or something that provided the money, and the witness said that there was adequate money.

However, my comments at the earlier point had to do with the fact that not everybody, not every State has the wealth of Oklahoma. Oklahoma happens to be blessed with oil. Since oil companies do not pay much in taxes, I guess the rest of the people are doing well enough out there that you have got the money, and that is great with me.

But the fact is that in the rest of the country we do not have the money—at least in the parts that I represent. With respect to the Juvenile Justice Act, we have removed literally thousands upon thousands of status offenders such as the kids that were described in Mr. Treanor's testimony from institutions just such as these.

Now what is going to happen is that we are going to cut the money for that very purpose. There is no other place to get it. You can talk about all the federalism you want, but the federalism is just saying to the States: "You are going to have to do more. It is your problem where to get the money." With 12 percent of the people unemployed in my State, we do not have the money. We have got a billion dollar deficit.

The juvenile justice program is being cut from $11 million to $6 million. That is not throwing money at problems; that is doing something about the problem. The runaway youth program has provided community-based safe shelter to well over a million kids. Boy, we are really going to accomplish something. We are going to cut that budget from $11 million to $6 million. That is a tip for some of the oil companies who do not pay taxes in this country, or some of the corporations who are not going to have to pay taxes, as Senator Quayle has pointed out, under the new tax law.

What I am saying is: It is not a question of throwing money away. I am as good a budget balancer as you. But what you are doing is you are turning your back on today's problems, and all you are doing is trading far greater problems for the future, as Mr. Treansor pointed out, to the poor juveniles who might have had a better future before them.

So I say to you, my young friend, do not be so pennywise that you will be pound foolish. Do not think it is just a question of liberals and conservatives, and reactionaries, et cetera. It is a question really of what kind of an America do we have? We can find billions of dollars more for our defense, but we had better also concern ourselves about the young people who live in this country and not just nickle and dime them to the point that they become a total charge upon our society in the future.

That is my speech for today to you, my good friend from Oklahoma.

Senator SPECTER. Senator Boren?

Senator BOREN. I, Mr. Chairman, am not going to inject myself into the discussion between the two here. [Laughter.]

I think we got a little off the subject there for a minute, but I do agree with what Senator Metzenbaum has said in regard to investment in programs for these young people.

I would say, Mr. Chairman, that I again appreciate your invitation to us to be here. I would like to think that I would have been here and would have wanted to have heard this testimony had it applied to any other State as well as to Oklahoma, because we have a very serious national problem.

As Senator Metzenbaum said, we talk about national defense but we should think about domestic defense. The best domestic defense that we have against crime is to try to help these young people before they ever are scarred to such a degree that they go on into a criminal situation later on in life.

To me, the saddest thing in listening to what we have heard—and I do think, Mr. Chairman, that we should proceed, and I urge you to proceed; I think it is appropriate that we have had this hearing today—the saddest thing to me is hearing about these young people and about how they get into these situations in the beginning because as we have heard in some of the cases here father was in prison, her mother deserted her and just left her. In other words, we have young people here who have no home to go to and in many cases, no family members, even distant family members, to take care of them.

It is sad indeed to think that they are thrown into situations where they are scarred by having these kinds of incidents occur. The really difficult thing is to try to find the best alternative way—foster homes, group homes, whatever we can—to get those kinds of young people who can be salvaged into a situation where they are not scarred like this at an early age.

I would just say that again I appreciate your sincere concern with this problem. It is a little difficult perhaps because State pride leads us to be naturally wanting to make sure that our State is given a fair opportunity to present its side of things, but I think as Federal legislators we must keep in mind our ultimate obligation to try to come up with answers to these kinds of problems so that we do not have young people finding themselves in these situations, whether it is in Oklahoma, or whether it is in Ohio, or New York, or California, or whever it might happen to be.

I just appreciate your focus and your interest on this, and I appreciate you having us in. And as I say, I hope when all of this is over with that all of us can find new approaches and more constructive suggestions as to what we can do to improve the situation.

Senator SPECTER. Senator Nickles?

Senator NICKLES. I thank the chairman. I also appreciate the comments of Senator Metzenbaum and Senator Boren.

I would agree, Senators, that I think we have an issue here that certainly is not partisan. I think it is one we can have bipartisan cooperation on.

Senator Metzenbaum, you and I serve on the Labor and Human Resources Committee, and I think we share a lot of interest in trying to see what we can do, and particularly in the area for youth as far as job opportunities, and giving them the opportunity to be able to pull themselves up in whatever way possible.

Concerning the problems we are addressing today, and particularly the problems that have been outlined so well by Ms. Westmoreland and also previous testimony concerning some of the problems, the old adage of "where there is smoke, there is fire," seems to apply. I do not doubt that the with smoke that you have pointed to today, there is some fire.

It is certainly my contention, Senators, that we want to do everything we can do to put out that fire as rapidly as possible.

Senator Metzenbaum, my comment is: I really do not think that the problems that have been alluded to today in Oklahoma, were caused by funding, as I alluded to earlier.

The problems that I see were primarily, in trying to put together a synopsis, gross mismanagement in a lot of cases. The management has not had their day in court yet. I said earlier that I thought they should. But certainly from the volumes and reams of testimony of cases and so on, there has most likely some very poor management and very slow—and this probably concerns me as much as anything—very slow movement in coming to task to correct some of the problems.

I think that the one individual who was supposed to have engaged in oral copulation went almost a year before he was dismissed. And then, only to be dismissed because of these recent stories which have been coming out. That same pattern was mentioned several times for different employees. Only as these allegations surfaced, have those employees been terminated.

Many of these employees are guilty of criminal offenses. There are laws against indecent exposure. I think one of the cases that you mentioned, Mr. Treanor, earlier was in employee who repeatedly exposed himself. Now that is against the law.

There are laws against child abuse. These laws need to be enforced, and they need to be enforced vigorously. It is possible that our State has not been doing that, so we certainly need to work with them to see that they do. Possibly this hearing will encourage the State to do so.

We have not really had the contact or the input to date—this committee has not and I have not—from the OSBI to see where they stand in some of those investigations.

You mentioned soliciting for a prostitution ring, on an organized-type scale which was running out of Taft. I want to know if that is still going on. I want to know if those employees who were involved are still employees today, whether they have been dismissed, or whether they are in a different State.

There are some very, very strong allegations many of which are in direct violation of the law. I think the State and Federal officials, where that might apply—and I would think in the prostitution cases, if it crossed State lines, it is certainly a Federal offense—should certainly prosecute as rapidly and as forcefully as possible. I think we do so.

So, Mr. Chairman, from the standpoint of possibly having been able to air some things, this has been a fruitful hearing. Notwithstanding however, the idea that everybody should have their day in court and be able to present the other sides of the arguments. I am in favor of that, I do not think that we should be trial judge and jury today. But I do think that in cases where the State has been neglectful, and certainly where employees were maintained on salary for a year after the complaints were originally made, gross mismanagement need to be changed. They need to change procedures. They need to change personnel, if this is the type of results that they have had.

I might, Ms. Westmoreland, just ask you a couple of questions about what you alluded to earlier concerning the prostitution rings that you had mentioned.

You mentioned that over a period of time there were two or three different people who said that they had been solicited: Would you been interested in going to, what, do tricks for Sugar Daddy? Where was this Sugar Daddy? Is this in Tulsa? Oklahoma City?

Ms. WESTMORELAND. I think it is Oklahoma City. Let me look at the report.

Senator NICKLES. Was there more than one individual?

Or is this one individual?

Ms. WESTMORELAND. It just refers to one individual, and he is named, but I did read his name.

Senator NICKLES. Have any charges been filed against Sugar Daddy or the State employees?

Ms. WESTMORELAND. It is Oklahoma City. I do not know whether charges have been filed or not.

Senator NICKLES. Mr. Chairman, Mr. Treanor, and others, I am very concerned about this. I want to know if this State employee is still an employee.

Mr. TREANOR. Senator, on that point I called the State office on Tuesday morning and requestesd that I be—that I would visit this particular facility in question, Taft. When I arrived there approximately 10 hours later, the individual that we are talking about, and the individual involved in the drug dealing, had both been fired between the time I called the State office and the time I arrived at the Taft Center.

Senator NICKLES. Back up. They were fired between—go though that one more time?

Mr. TREANOR. I called the State office. I had conversations that they were going to be cooperative. "Wherever you want to visit, just let us know." So I called the State office. I said, "Well, here are a couple of facilities. I am going to try to get to as many of them as I can today."

When I arrived at Taft, those two gentlemen were no longer employed there.

Senator NICKLES. They were fired that day?

Mr. TREANOR. That is right, Senator.

Senator NICKLES. They were fired that day that you were going to ——

Mr. TREANOR. That day. I learned that not from my visit to Taft, but I learned it the next morning in the Muskogee-Phoenix, or the television station, one or the other.

Senator NICKLES. What was the date of the original allegation where that had gone to the department?

Ms. WESTMORELAND. November 25, 1981.

Senator NICKLES. November 25? So there is what, a 2½-month period of time that elapsed between the time of the complaint, and they were actually still on the payroll at time during this. That concerns me, too.

I would certainly think—I know a lot of police departments put people on suspension until allegations are proven or disproven. If they are disproven, then they would of course perceive backpay. If they are proven, then there would be a discharge from the date of that charge. Certainly I would think that the State should, on allegations of this degree, be implemented.

What about the individual who was on the boxing trip, and spent the night in Ponca City. How long was he an employee after that happened? I remember you had a lot of different memo's on that case.

Ms. WESTMORELAND. The first report on it is April 23, 1980. Our information was that this individual was fired this week.

Senator NICKLES. This week, also? So we have found that their have been a lot of firings just as a direct result of the investigations by this subcommittee, and possibly also by Gannett and OSBI. So now that it is becoming more visible some of the people who might be embarrassing to the department or the institutions are finally being disposed of. Is that correct?

Mr. TREANOR. This is correct. The cases have not been referred to the district attorneys. I say that because I have personally seen interviews of the district attorneys both in Muskogee and Alfalfa

Counties where two of these incidents took place, where the department reported that they had been referred and the DA's stated publicly—I did not interveiw them—but they stated publicly that those cases had not ever been referred to their attention.

Senator NICKLES. So the State did not refer? The State dismissed these people. This past week they dismissed them but the State did not turn over those cases for the district attorneys to file appropriate charges?

Mr. TREANOR. Apparantly so, Senator.

Senator NICKLES. And we are talking about, am I correct that these are criminal offenses?

Mr. TREANOR. I believe they are, sir. I am not that familiar with the Oklahoma Criminal Code.

Senator NICKLES. Solicitation; oral sodomy with a minor?

Senator SPECTER. Yes. they are. I am familiar, and they are.

Senator NICKLES. My experience in the legislature was short, but I thought that these were basic laws. Child abuse, we have all of those on the statutes, and I really do not think that Oklahoma's laws are particularly lax in the area. It seems as though the State department has been very lax in their termination or suspension of employees and when information is being disclosed in not turning it over to the proper authorities for prosecution. That bothers me, too.

So again, Mr. Chairman, I would say thank you for this.

How many people have automatically over the last week or so been terminated? Have you been able to keep a count? We have just mentioned a few.

Mr. TREANOR. I am aware of three cases, Senator.

Senator NICKLES. You have two from Taft. You had one from Helena.

Mr. TREANOR. No, that man is still a psychologist. Three.

Senator NICKLES. Oh, and the superintendent that was alluded to earlier by Ms. Westmoreland is reemployed now as a psychologist?

Ms. WESTMORELAND. At one of the schools for the retarded.

Mr. TREANOR. At the school for the mentally retarded.

Senator NICKLES. That was the case where he allegedly kicked somebody in the head, held somebody down?

Ms. WESTMORELAND. He said he put is foot on the floor to protect the child from hitting his head against the desk.

Mr. TREANOR. And that district attorney said he had never heard of the case before.

Senator NICKLES. What about the prostitution thing? I am aware, as is Senator Boren, of the district attorney in that neighborhood. They have not received any information from the State as far as possible violations?

Ms. WESTMORELAND. I saw a taped interview last night with the district attorney, and he said that he had received some piecemeal reports but no full-scale investigative files turned over.

Senator NICKLES. So he has never really received a full, complete file from the State to where he could prosecute those people who have been recently terminated because of these alleged offenses? They have not received adequate materials from the State so they could prosecute these cases?

Ms. WESTMORELAND. That is what he said on television.

Senator Nickles. I think that certainly leaves a lot to be desired from our State officials if that is the case. Of course these individuals evidently were just terminated this week, so possibly that information will be forthcoming.

Senator Specter. Thank you, Senator Nickles.

This is a problem of overwhelming importance. There are in the United States today some 35,000 nonoffenders in status detention who are subjected to being retained in custody without ever having been convicted of a crime, or ever accused of any criminal conduct.

This kind of a problem is one which has to be attacked at all levels. In inviting Senator Boren and Senator Nickles to sit on this panel today, which is somewhat unusual but I thought entirely appropriate in light of the fact that this matter focuses on Oklahoma, I was aware of the issue of local pride. And I am interested to hear Senator Nickles' comments about the slowness of the response. I think that much at least is apparent on the face of these records. And to hear Senator Boren say that the matter should proceed full speed ahead, which we intend to do.

This was not a day when others could be present, really, on such short notice, but they were invited to come if they wanted to, at least to have access. But it was my judgment that having these reams of documents, having the four statements which an official from the subcommittee obtained personally, that there was more than an ample basis to proceed.

I also think, as Senator Nickles has noted, that once these matters are aired there is a tremendous additional impetus at all levels, including district attorneys, a line with which I have had some experience. Once the matters are forcefully brought home, there will be more action.

When you come to the question of local pride, I think it not inappropriate to comment that I have substantial contacts with Oklahoma myself, having been born and raised in the neighboring State of Kansas, and having attended the University of Oklahoma for 1 year, which was a very pleasant year.

Senator Boren. Mr. Chairman, we are quite convinced that your later success in life is due to the impact of that one year of education in Oklahoma. [Laughter.]

Senator Specter. Well, I would only question that assertion as to whether there has been any success in life. [Laughter.]

If any there has been, it certainly is occasioned by my contacts in Oklahoma.

But on a very serious level, it is a matter of overwhelming national importance and this is not only a question that touches Oklahoma, when we consider that at this moment there are 35,000 people in detention without ever having been charged, let alone convicted of anything, and these matters are brought to our attention and they are corroborated with the kinds of volumes of reports at least for a prima facie showing which requires further action, I think the subcommittee would be derelict if we did not proceed and proceed at the earliest possible time, and we have done so today.

[Whereupon this portion of the subcommittee hearing was recessed.]

ABUSE OF JUVENILES IN PUBLIC CARE AND DETENTION

WEDNESDAY, MAY 26, 1982

U.S. Senate,
Subcommittee on Juvenile Justice,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 2228, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Thurmond (chairman, full committee), Nickles, Boren, and Metzenbaum.

Staff present: Bruce A. Cohen, chief counsel.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator Specter. Good morning, ladies and gentlemen. It is 9:30 and we will begin this hearing.

This morning we are going to resume hearings we started on February 11 concerning allegations of serious abuses and misconduct in the detention care of juveniles in institutions maintained in the Oklahoma Department of Human Services. I emphasize that at this stage they are only allegations. We have heard some testimony in February and we are going to hear further testimony here today, and tomorrow officials from the Oklahoma institution will have an opportunity to appear. It is important to bear in mind that insofar as this committee is concerned, until all of the evidence is in, they are allegations, and after we hear all of the testimony and perhaps some beyond these 2 days of scheduled hearings, we will then be in a position to make some judgments.

During this morning's hearings, the subcommittee will hear from certain of the young people who have been present in the institutions operated by the Oklahoma Department of Human Services. These proceedings are investigations of allegations of abuse and are prompted by the fundamental questions raised about the guarantees of basic constitutional rights for juveniles in official custody. In addition, the matters about which we inquire here today place in sharp contrast the progress being achieved under the auspices of the Juvenile Justice and Delinquency Prevention Act and the present implications of the practices which we are looking into as to the current funding and as to appropriate funding for the future.

Among the purposes of the Federal legislation are the prevention of delinquencies, strengthening the family unit, assisting State and local government and private and public agencies to improve the juvenile justice system and encouraging the implementation of national standards for the administration of juvenile justice, providing training for those who work with young people in custody, and generally combating the enormous costs and a measurable loss of human life and personal security and wasted human resources and the threat to the national welfare that is presented by juvenile delinquency and crime. Essentially stated, the problem of crime in this country is overwhelming, and the contribution of juvenile crime is a major part of the adult crime picture, and to a very significant extent, juvenile crime is promoted by the commingling of juveniles with adult offenders, the commingling of juveniles who are so-called status offenders with those who are adjudicated delinquents; that is, having been convicted of certain conduct which, if adults, would constitute a crime. And as a general proposition, the appropriate care of juveniles who are truants or runaways or do not have homes should be such that they have an opportunity to move through their juvenile years and become adult citizens with an opportunity to prosper in our society.

Our first witness today is going to be Mr. William Treanor.

Mr. Treanor, will you state your full name for the record, please?

STATEMENTS OF WILLIAM TREANOR, PROFESSIONAL STAFF MEMBER AND MARY LOUISE WESTMORELAND, COUNSEL, SUBCOMMITTEE ON JUVENILE JUSTICE, COMMITTEE ON THE JUDICIARY, U.S. SENATE

Mr. TREANOR. My name is William Treanor.

Senator SPECTER. And by whom are you employed, Mr. Treanor?

Mr. TREANOR. I work for the Senate Subcommittee on Juvenile Justice.

Senator SPECTER. And how long have you been so employed?

Mr. TREANOR. For about 1 year, Senator.

Senator SPECTER. We are joined now by Senator David Boren whom we have invited to participate in this hearing, and also by Senator Don Nickles. We welcome you here, gentlemen, both distinguished colleagues in the U.S. Senate and Senators from the State of Oklahoma. And before proceeding with your testimony further, Mr. Treanor, I would be pleased to hear from Senator Nickles as to any opening statement he might wish to make.

OPENING STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator NICKLES. Thank you very much, Senator Specter. I appreciate your inviting me to participate in this second round of hearings on Oklahoma's institution for children. I believe it to be of tremendous importance to the State of Oklahoma and to the children of these institutions that we have these hearings and that we get to the facts concerning some of the allegations that were made previously.

I see this issue as primarily of the State's responsibility and I am pleased to see the State bureau of investigation conducting what appears to be an extensive investigation.

I would also urge the appropriate authorities in the State to cooperate with this subcommittee. I believe the people of Oklahoma deserve a complete and factual explanation.

I view the U.S. Senate's interest in this as limited, and yet present because of the Federal dollars the Department of Human Services [DHS] receives. It also concerns me that until this subcommittee began looking into some of the problems, very little, if any, investigation or general legislative oversight by the State legislature had been done.

The allegations that have been made touch a great many lives in Oklahoma, and it is my hope that in all fairness we can discover the truth during these hearings. During the first hearing in February, the statements of four children were read. Their testimony included stories of physical abuses—even to the point of broken bones—sexual abuses, drug trafficking, and a variety of other problems within the institutions. I know that I was deeply troubled by what I heard, as were my colleagues. I felt then, as I do now, that both sides of the story must be heard, and we must get the facts out. I believe that those responsible for such alleged abuses should not only be removed from the system but, where warranted, should be prosecuted to the full extent of the law.

The children in these institutions, whether deprived or delinquent, probably have not had the benefit of the stable homes most of us have had. Many of these children have committed no crime, but are the victims of parental abuse or abandonment' and are forced to seek help from the State. They deserve the greatest sensitivity and care that we can offer them.

There are a number of concerns about which I would like to question representatives from DHS. Most of my questions stem from my visits that I made to three of the institutions 3 months ago. At this time I found the training schools—at Taft, Boley, and Whitaker—to be clean and adequate facilities. The alleged problems seem to flow from certain personnel and management practices.

In any system as extensive as Oklahoma's DHS, one is likely to find persons applying and also being hired into positions for which they are not qualified. That is why it is especially important to have the proper managerial checks and balances in place. Instances in which persons with criminal records—and I am not speaking of petty misdemeanors—are hired to work with children are inexcusable. Background checks on employees, who will be working with children, should be routine.

In addition, there appears to be little or no real authority at the superintendent's level to suspend or fire those employees against whom serious allegations have either been made or substantiated. One security guard was suspected of selling drugs and also soliciting women for prostitution, yet no action was taken to deal with this employee until 5 months later.

A third aspect of the personnel and management problems seems to be the reinstatement of terminated employees. After being fired, the employee would appeal to the Oklahoma State Merit Board only to be cleared and placed back into the system. This problem may be part of the merit system; however, I am told that DHS has never appealed any decision by the merit board—although it has the authority to do so—and it has never attempted to interest the legislature in correcting the problems. In addition, there seems to be a practice of transferring, rather than firing, those employees who are suspected of serious abuses.

During the course of this investigation, I have tried to be fair and sensitive to the very large task the department has in running these programs. Hopefully, at the conclusion of this Senate investigation and all other ongoing investigations, the State will succeed in its endeavor to provide the best care Oklahoma's homeless children can be given.

Again, Senator Specter, I appreciate your interest and also your willingness to allow Senator Boren and me to participate in the hearing. Hopefully, it will be to the benefit of the children of Oklahoma.

Senator **Specter**. Thank you very much, Senator Nickles.

I appreciate your assistance on this matter and your concern and the cooperation which you and your staff have given this subcommittee in pursuit of this matter. I similarly appreciate the cooperation of my colleague, Senator Boren, a U.S. Senator, for his assistance in the matters which we are looking into now.

We would be pleased to hear an opening statement from you, Senator.

OPENING STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM OKLAHOMA

Senator **Boren**. Thank you very much, Mr. Chairman.

I will not take the time to give a full statement but simply to join in what Senator Nickles has said in expressing appreciation to you for showing us the courtesy of inviting us to sit in on these hearings, even though we are not members of this subcommittee. We are concerned about the treatment of juveniles both in the State of Oklahoma and everywhere else in this country.

I applaud your sincere interest in this subject, and my hope is that from these hearings will come a series of constructive suggestions that all of us can join in, making, not only to improve the care of juveniles in Oklahoma but perhaps to make some changes in Federal laws that will help improve the care of juveniles all across our country.

All of us feel that if there has been even one instance of mistreatment, that it is one too many. I think that the people of our State are unanimous in their concern and their desire to see proper treatment of juveniles, and I just hope that we can come forward with some suggestions that will be helpful.

I again appreciate the invitation and I applaud your interests in this very important subject.

Senator **Specter**. Thank you very much, Senator Boren.

Senator Mathias, who is a member of this committee, has sent word that he will join us as soon as he can. He is occupied right now in chairing other hearings, and I know that Senator Metzenbaum, the ranking Democratic Member, has worked closely with us on this matter, and I expect that he will be present just as soon as his schedule permits.

Mr. Treanor, we have got to the point of identifying you as a staff investigator for this subcommittee, and we were just up to the point of putting into the record your educational background and your experience in this field.

Will you please proceed to do that?

Mr. TREANOR. Yes, sir, I went to college at Georgetown and I have a master's degree from Harvard University.

Senator SPECTER. A master's degree from Harvard University in what subject?

Mr. TREANOR. In education, public administration.

I started and ran a youth agency here in the District of Columbia for 5 years, running group homes, working with runaways, kids in trouble, diversion, et cetera, and for 6 years I was the Director of the National Youth Work Alliance of the Trade Association of Community Based Youth Agencies.

I spent 1 year in Europe working with the British Youth Service and writing on youth services in different European countries.

Senator SPECTER. So, all told, how many years have you spent working in youth services?

Mr. TREANOR. About 15, Senator.

Senator SPECTER. What contacts have you had with the Oklahoma institutions, starting at what date?

Mr. TREANOR. Senator, in January 1982, the Senate Subcommittee on Juvenile Justice began its investigation into the operation of juvenile institutions run by the Oklahoma Department of Human Services.

On February 4, I began a 6-day visit to Oklahoma. Five hours after my arrival, I met with Mr. Mike Fogerty, deputy director of the department of human services, who notified Mr. Lloyd Rader, director of his department, of my arrival and of our meeting. During the course of my stay in Oklahoma, I met with over a dozen people with personal experiences in the operation of DHS institutions.

Senator SPECTER. How long were you in Oklahoma on that occasion?

Mr. TREANOR. Five days—six days.

Senator SPECTER. And what was the nature of the cooperation which you received from the Oklahoma officials?

Mr. TREANOR. It was very good, Senator.

Senator SPECTER. Proceed.

Mr. TREANOR. One juvenile in the custody of DHS and three recently released young adults gave me signed and witnessed statements on their experiences while confined in four of DHS' six juvenile institutions. Parts of these statements were read at the February 11 hearing.

Also, prior to the hearing, hundreds of abuse reports and allied documents were reviewed by myself and the subcomittee counsel, Mary Louise Westmoreland, who is sitting to my left.

Senator SPECTER. Now, as to those documents, they were made available to you by the officials of the Department of Human Services?

Mr. TREANOR. No, sir. We had got a variety of——

Senator SPECTER. Were they authenticated as coming from the Oklahoma Department of Human Services?

Mr. TREANOR. Yes, sir. As a matter of fact, we got identical documents in some cases from the department.

Senator SPECTER. When you received them at a later date, they were voluntarily turned over to you by the Oklahoma Department of Human Services?

Mr. TREANOR. Yes, they were.

Senator SPECTER. Approximately how many such reports have you reviewed?

Mr. TREANOR. 700.

Senator SPECTER. All right.

Now, what pattern, if any, arises from the review of those 700 reports as to the use of force?

Mr. TREANOR. There was evidence that excessive force was used by staff on numerous occasions.

Senator SPECTER. Could you be specific in terms of what is the evidentiary basis for your statement?

Mr. TREANOR. The subcommittee staff has reviewed 700 abuse reports furnished by the department. Many of these recount incidents where children were injured or mistreated. Illustrative of the practices are the following cases:

Here is a case, Senator, 1981, at the Rader D&E Center, a statewide intake and evaluation center.

Senator SPECTER. When you say D&E center, what do you mean by that?

Mr. TREANOR. Diagnosis and evaluation.

Senator SPECTER. All right.

Mr. TREANOR. In this case, the boy's arm was broken in a shower stall by an employee who simply received a reprimand in this case. I actually had occasion to meet this young boy later at Whitaker, as did Mary Louise Westmoreland. He is quite a small boy——

Senator SPECTER. Mr. Treanor, in accordance with the procedures which we began last time during the course of the last hearing, we will omit any reference to any names until there has been an opportunity for specific people who are involved to be notified of any of these incidents. And as to juveniles, we will refer to them by first names only.

With that background in mind, you may proceed.

Mr. TREANOR. OK. The department concluded that the incident was unavoidable, considering the boy's behavior.

Senator SPECTER. Now, precisely what happened in that incident?

Mr. TREANOR. He was resistive to the directions of the staff and he was in the bathroom in a shower stall, and a number of staff people came in and——

Senator SPECTER. What was he alleged to have done?

Mr. TREANOR. He was just not following instructions.

Senator SPECTER. And what happened to him?

Mr. TREANOR. Well, they grabbed ahold of him and they——

Senator SPECTER. You say they, who do you mean?

Mr. TREANOR. It would be three employees of the department. And in the course of grabbing him, their—the boy's arm was apparently pulled behind his back and snapped. And later it turned out it was broken.

Senator **Specter**. Where did the fracture occur?

Mr. **Treanor**. I believe here in the arm [indicating]. His arm was twisted up behind his back.

Senator **Specter**. And what action, if any, was taken by the Department of Human Services?

Mr. **Treanor**. It was—they have a finding, Senator, called other. They have substantiated, not substantiated, unfounded, and other. And other is simply the things that do not fit into the other categories. I guess perhaps it could be construed as sort of an act of God or something.

In any event, they say it was unavoidable, and there was no action taken.

One of the employees suggested that he receive further training in the Mandt technique, which is a technique for controlling students who were acting out——

Senator **Specter**. What did your further review of the records show?

Mr. **Treanor**. That is basically it.

Senator **Specter**. Well, moving beyond that incident, what did your review of the record show?

Mr. **Treanor**. This is another case, Senator.

Senator **Specter**. Proceed.

Mr. **Treanor**. This is a case that was reported at the February 11 hearing and concerns another boy. This time at the Whitaker School the boy was being restrained by two gentlemen, a Mr. B and Mr. C, both security men at Whitaker. His arm was also, according to these reports we have, broken. Perhaps it was sprained. In any event, he was taken to the hospital.

Senator **Specter**. This, you say, is the case of another broken arm?

Mr. **Treanor**. That is right.

Senator **Specter**. And how old was this juvenile?

Mr. **Treanor**. Fifteen.

Senator **Specter**. And what was he originally doing which provoked the response?

Mr. **Treanor**. He refused to go to bed. He was sitting watching television and they wanted him to go to bed. And he would not go to bed. So he was taken to what is called the central cottage or central detention and he, of course, was being taken from his cottage residence to central detention, these two security guards somehow managed to severely injure his arm. He was knocked against the wall and he had a pretty rough time of it.

Senator **Specter**. And what action, if any, was taken by the Oklahoma Department of Human Services?

Mr. **Treanor**. The investigator attempted to look into the matter but the gentlemen involved refused to take a polygraph examination, and the results were inconclusive.

Senator **Specter**. Was any disciplinary action taken by the department when the individual refused to take a polygraph examination?

Mr. **Treanor**. No, sir.

Senator **Specter**. What other cases do you have which are relevant to this issue?

Mr. TREANOR. Here is a case, this is the Mr. B that I referred to earlier in the previous incident. Mr. B, without provocation, grabbed another juvenile by the lower jaw, and bounced his head against the pillow while holding onto his hair. He twisted his arm until Mr. W thought it might break. Mr. B cursed Paul the boy and was responsible for the appearance of some blood on Paul's mouth.

Now, that is a statement from one of the staff members who was present in the official record.

Senator SPECTER. How old was the juvenile in this situation?

Mr. TREANOR. It does not show, Senator. In this institution, he would probably be about 14.

Senator SPECTER. And how many employees were involved in restraining this juvenile?

Mr. TREANOR. In this case, it was just one. There were other employees present who in fact were witnesses, but it was just one employee.

Senator SPECTER. And when you refer to Mr. B, that is the same individual who was involved in the case you just testified about previously?

Mr. TREANOR. Yes, sir.

Senator SPECTER. And what action, if any, was taken by the Department of Human Services on this matter?

Mr. TREANOR. Despite the fact that he had been involved in other incidents, he received a reprimand and a warning.

Senator SPECTER. Talking about Mr. B being involved in other incidents?

Mr. TREANOR. Yes, sir.

Senator SPECTER. How many other incidents was he involved in?

Mr. TREANOR. We have a number of examples of Mr. B.

Senator SPECTER. Approximately how many?

Mr. TREANOR. Half a dozen.

Senator SPECTER. What, if anything, was ever done with respect to Mr. B?

Mr. TREANOR. Well, eventually, some—for instance, 10 months after the case of Mike E. with his injured arm, that was in March 1981; in January of this year, as a result of another incident, one of the girls in the institution wrote directly to Mr. Rader, the director of the department, complaining about having her hair pulled.

I interviewed this young lady and she told me that she wrote in this letter to Mr. Rader, according to an interview that I conducted with the superintendent, called the superintendent and instructed at that point that these employees be terminated.

Senator SPECTER. Was Mr. B ultimately terminated?

Mr. TREANOR. In January of this year. However, it is my understanding that he is appealing that through the State merit review board.

Senator SPECTER. All right.

Moving beyond the third case that you have testified about, what other cases have you reviewed on the issue of force?

Mr. TREANOR. I have a number of other ones, Senator. This is an incident in which the superintendent of the Helena's School had a student remove his clothes and then they were walked in the cold rain to find the keys in the cottage which they previously had stolen. They were walking them around. That is in February of this year. It occurred on November 1, 1981. So they were strip searched in the cold weather and they had to walk around in their undershorts.

Senator **SPECTER**. And what was the date that the strip search occurred?

Mr. **TREANOR**. There were two of them, Senator. There was one in November and one on February 18 involving this particular case at the Helena School.

Senator **SPECTER**. And what was the conduct of the juvenile which was alleged to have broke the strip search?

Mr. **TREANOR**. They were attempted AWOL's. They were absent without leave.

Senator **SPECTER**. And what further cases do you have on the issue of force?

Mr. **TREANOR**. Here is a case now at the Rader Diagnostic and Evaluation Center where a student, who allegedly was trying to go AWOL, was restrained by three staff, including a Mr. C who will come up in some other instances, and his collarbone was broken as a result of this.

Senator **SPECTER**. How old was the juvenile whose collarbone was broken?

Mr. **TREANOR**. Approximately 15.

Senator **SPECTER**. And what conduct was he alleged to have been engaged in which provoked that incident?

Mr. **TREANOR**. Attempted AWOL, escape.

Senator **SPECTER**. Do you have any details as to how his collarbone was broken?

Mr. **TREANOR**. They—the student was trying to get out of the place near a fence or whatever, and was jumped on by the—by the staff.

Senator **SPECTER**. How many from the staff were present on the restraining effort?

Mr. **TREANOR**. There were three. They say that the student was trying to run over the staff but, in any event, the collarbone was broken.

Senator **SPECTER**. And what action, if any, was taken by the Department of Human Services on that incident?

Mr. **TREANOR**. It was found to be not substantiated, which means, in effect, no action was taken.

Senator **SPECTER**. The charge of excessive force was found by the Department to be not substantiated?

Mr. **TREANOR**. That is correct.

Senator **SPECTER**. Would you proceed to your next case, please?

Mr. **TREANOR**. This is a case of a young man who was a student at the Boley School. He was slapped in the face by a staff member. There was a probable fracture of his nasal bones.

Senator **SPECTER**. You say possible or probably fracture, which?

Mr. **TREANOR**. Probable. That is what is contained in the investigator's report.

The student involved stated that the employee got involved in the incident—the student tried to kick somebody. The student reportedly accidently hit the staff member who then basically took a swing at him, hit him in the nose.

Senator **Specter**. Do you have in that record the age of the juvenile?

Mr. **Treanor**. This boy would be 16.

Senator **Specter**. Any indication of the relative size of the juvenile and the staff member?

Mr. **Treanor**. No, sir. There was no polygraph. There was requested in the investigation that a polygraph be taken of the staff but there was no polygraph taken. The report states you cannot measure intent in a polygraph examination, so whether it was accidental or not—so they did not give a polygraph.

Senator **Specter**. So there was no effort to take a polygraph in that case?

Mr. **Treanor**. No, sir.

Senator **Specter**. What was the conclusion by the Department of Human Services in that matter?

Mr. **Treanor**. That was another "other"; inconclusive.

Senator **Specter**. Proceed to your next case, please.

Mr. **Treanor**. This is a case of a Mr. R at Boley. He will be appearing in other cases also.

Mr. R, in this instance, grabbed a student by the throat during a rap session, counseling session, and choked the student and threatened him. And this boy was struck in the chest.

Senator **Specter**. What provoked the staff member to choke the student and strike him in the chest if it is shown in that report?

Mr. **Treanor**. The student wanted to leave the rap session for reasons unknown.

Senator **Specter**. And what action was taken by the Department of Human Services in that case?

Mr. **Treanor**. This one is checked "other, inappropriate method of control was used by the YGS."

Senator **Specter**. And the YGS stands for what?

Mr. **Treanor**. Youth guidance service worker.

Senator **Specter**. So the report did conclude that the service worker in that case used inappropriate force?

Mr. **Treanor**. It was inappropriate method of control.

Senator **Specter**. Inappropriate method of control.

Was there any disciplinary action taken?

Mr. **Treanor**. It was a verbal reprimand in this case, Senator.

Senator **Specter**. Proceed with your next case.

Mr. **Treanor**. This is a case where a student at the Helena School was handcuffed and a staff member picked the boy up by the handcuffs and lifted him off the ground and he got cuts on his wrist as a result of this.

Senator **Specter**. Does the record show why the youngster was in handcuffs?

Mr. **Treanor**. Probably not. It does not, Senator. Probably—I could not say.

Senator **Specter**. You are saying that the official lifted the juvenile off the ground in the handcuffs?

Mr. **Treanor**. That is right. Lifted the student up certainly to the point where the weight of the handcuffs on his arms caused his wrists to be cut.

Senator **Specter**. Does the record show the relative size of the student and the custodian?

Mr. **Treanor**. It does show the relative size of the student, and he was a very young, heavy young man, 240 pounds.

Senator **Specter**. The young man was 240 pounds?

Mr. **Treanor**. Yes.

Senator **Specter**. And he was lifted off the ground?

Mr. **Treanor**. He was lifted. He was pulled.

Senator **Specter**. Why did the lifting occur, if the record shows?

Mr. **Treanor**. It does not show.

Senator **Specter**. Is there a medical record attached to the report showing the injury sustained?

Mr. **Treanor**. I do not believe there is a medical record in this one.

Senator **Specter**. What does the report show with respect to injuries?

Mr. **Treanor**. There is just the—it says here it would appear in lifting the student by the chain, excess force was used in handling this student to the point where there was an injury inflicted.

Senator **Specter**. Let the record show that Mr. Treanor is being assisted by staff counsel, Mary Louise Westmoreland.

Would you identify yourself for the record?

STATEMENT OF MARY LOUISE WESTMORELAND

Ms. **Westmoreland**. I am Mary Louise Westmoreland, counsel for the subcommittee.

Senator **Specter**. Ms. Westmoreland, you may be in a position to supplement Mr. Treanor's testimony from time to time, and you should feel free to do so.

Approximately how many of these abuse reports were examined by you, Ms. Westmoreland, and you, Mr. Treanor, in total jointly?

Ms. **Westmoreland**. A total of 700.

Senator **Specter**. And you have just testified as to a series of cases.

Would you state whether or not those were characteristic of other cases which you examined?

Ms. **Westmoreland**. I think they are characteristic and representative of other cases.

Senator **Specter**. And approximately how many of the 700 cases that you examined would you say were characterized by the use of excessive force?

Ms. **Westmoreland**. In the cases where there are allegations of excessive force, the degree of evidence on the veracity of that charge varies from case to case. However, in a very substantial portion of them, the evidence certainly indicated to me that excessive force was used.

Senator **Specter**. Can you give us an approximate number of the 700 cases where you concluded that excessive force was used?

Ms. **Westmoreland**. More than half.

Senator **Specter**. All right.

What response was made by the ranking officials of the Department of Human Services on individuals who repetitiously used excessive force?

Mr. **Treanor**. There was repeated use of excessive force in that it appears to have been tolerated by ranking officials.

Senator **Specter**. Approximately how many individual cases were reported of excessive force?

Mr. TREANOR. We have 10 cases here, Senator, and there are more.

Senator SPECTER. Are those illustrative of other cases which you examined?

Mr. TREANOR. Yes, sir, they are.

Senator SPECTER. Would you proceed with the specific cases on this issue?

Mr. TREANOR Yes, sir.

Senator NICKLES. I wonder, Senator, if we could have each case identified, by institution. Throughout some of the other allegations, I was unable to follow which institution we were talking about.

Senator SPECTER. I would be glad to do that, Senator Nickles.

Mr. TREANOR. This is at the Whitaker School. This involves Mr. C and Mr. B.

Senator SPECTER. Is this the same Mr. B that you talked about before?

Mr. TREANOR. Yes, sir. This is a case in June 1978. I would just like to point out that as far as Mr. C is concerned, our records show instances occurring in June 1978, December 1978, February 1979, April 1979, November 1979, December 1979, March 1981, October 1981.

Senator SPECTER. This is all as to one man?

Mr. TREANOR. Yes, sir.

Senator SPECTER. What is the total number of incidents?

Mr. TREANOR. We have about eight incidents here. In two of these incidents, according to the Department of Records, students suffered broken arms.

Senator SPECTER. All right. Proceed with the specifics of the case, please.

Mr. TREANOR. The Superintendent of Whitaker, in writing about this case and others, had this to say: "Mr. C does not have—does have a reputation of long standing of rough physical treatment of students."

Senator SPECTER. The reputation for what?

Mr. TREANOR. Rough physical treatment of students.

"In both"—there are some allegations attached to the report—

> In both of these allegations I do not feel I have sufficient documentation of evidence to recommend a disciplinary action. In view of the number of allegations in this treatment of students, I would recommend that if any further grievances are registered, that Mr. C meet with the Disciplinary Review Committee in the State office. I am not so sure that he has not already met the criteria for this recommendation.

That was in February 1979. This was before the case of Mike that was reported in February and some of these other things.

Our records indicate that he worked until January 19, 1982.

Senator SPECTER. Well, after that was written in 1979, was Mr. C involved in other incidents of allegations of excessive force?

Mr. TREANOR. Yes, sir, several.

Senator SPECTER. And what happened to Mr. C after those additional incidents?

Mr. TREANOR. Well, basically, in most of the cases, nothing happened to Mr. C.

There was that one case in December 1981, which I mentioned a few minutes ago, on which the student took it upon herself to write directly to Mr. Rader complaining about his behavior, and it was at that point that Mr. C was terminated.

Senator **Specter**. All right. Proceed with your next case, please.

Mr. **Treanor**. You want more on Mr. C or——

Senator **Specter**. Yes.

Mr. **Treanor**. Here is a case with Mr. C——

Senator **Specter**. Well, you have presented the matter in 1979 where an official wrote that Mr. C had been involved in a series of incidents, and if he were to be involved in any addition, then disciplinary action should strongly be considered. That is, in essence, what you just testified to, right?

Mr. **Treanor**. Yes.

Senator **Specter**. All right.

What happened next to the same individual, Mr. C?

Mr. **Treanor**. Well, here is an example of restraints on the use of a girl in September 1980.

Senator **Specter**. This involves Mr. C?

Mr. **Treanor**. Yes, sir.

Senator **Specter**. All right. Proceed to what the report shows to have happened.

Mr. **Treanor**. In this particular case the restraints were used, and the upshot was that——

Senator **Specter**. Well, what restraints were used?

Mr. **Treanor**. I believe that they were leather straps.

Senator **Specter**. How old was the young woman?

Mr. **Treanor**. About 14.

Senator **Specter**. And what was she alleged to have done to have provoked the use of the straps?

Mr. **Treanor**. There was an argument. She was——

Senator **Specter**. An argument with whom?

Mr. **Treanor**. With another staff member. She was—it was used to control her in a situation where she was fighting, kicking, and cursing, it says in the report.

Senator **Specter**. What kind of straps were used?

Mr. **Treanor**. I believe that they were leather restraints.

Senator **Specter**. And what injuries, if any, were sustained as a result of the use of the leather straps?

Mr. **Treanor**. There is no report of injuries, Senator.

Senator **Specter**. What is Mr. C alleged to have done that was improper?

Mr. **Treanor**. It was felt that he picked her up in the restraints and basically roughed the girl up a little bit while she was in restraints.

Senator **Specter**. What investigation, if any, was undertaken by the Department of Human Services on Mr. C on that matter?

Mr. **Treanor**. Nothing on this, sir.

Senator **Specter**. What next incident do you have, if any, as to Mr. C?

Mr. **Treanor**. Here is an instance in the summer 1979 where Mr. C threw a flashlight at a student.

Senator **Specter**. Is this before or after the prior incident in December 1979?

Mr. **Treanor**. It is after.

Senator **Specter**. What date in December 1979?

Mr. **TREANOR**. The 10th of December.

Senator **SPECTER**. What occurred in this incident?

Mr. **TREANOR**. It was a student—it was an AWOL attempt, and Mr. C went after the student and, in the course of that, he threw the flashlight which broke apart and the batteries struck the student in the elbow. This report was substantiated by the investigation.

Senator **SPECTER**. What action, if any, was taken by the Department of Human Services?

Mr. **TREANOR**. Nothing in particular. Nothing was done. It was an investigation, it was inconclusive. It says in the report it is my feeling that Mr. C did not intentionally throw the flashlight, and I feel that the matter has been resolved and there is no need for any further action in this matter.

Senator **SPECTER**. Who came to that conclusion?

Mr. **TREANOR**. The Deputy Superintendent.

Senator **SPECTER**. The conclusion was that Mr. C did not intentionally throw the flashlight?

Mr. **TREANOR**. That is right.

Senator **SPECTER**. What next, if anything, do you have as to Mr. C?

Mr. **TREANOR**. OK. Here is a case where—this is a case of verbal abuse in which he was involved.

Senator **SPECTER**. The date, please?

Mr. **TREANOR**. This is in 1981. October 1981, and——.

Senator **SPECTER**. There was an investigation of the verbal abuse?

Mr. **TREANOR**. Yes, sir, and also he used apparently a headlock on a girl involved in this case.

Senator **SPECTER**. A what?

Mr. **TREANOR**. A headlock.

Senator **SPECTER**. That is not verbal abuse, is it, Mr. Treanor?

Mr. **TREANOR**. No, sir; it is not.

Senator **SPECTER**. What did Mr. C do, and please refer to him only as Mr. C.

Mr. **TREANOR**. Yes, sir; he had her in a headlock and he twisted her arm and used insulting language.

Senator **SPECTER**. What language?

Mr. **TREANOR**. It says here, "slut and bitch."

Senator **SPECTER**. What action, if any, was taken by the Department of Human Services in this event?

Mr. **TREANOR**. There was no action.

Senator **SPECTER**. Is this categorized by the Department of Human Services as a verbal abuse incident?

Mr. **TREANOR**. This is both physical and verbal. This happened very late. This is one in which he was already in the process of being——

Ms. **WESTMORELAND**. In this case, Senator, the report was apparently mislaid and by the time they found the report to process it, it was noted that he had already been terminated. So the incident occurred, nothing was done with it. Mr. C was terminated, and then they found this abuse report and they went on and wrote it up.

Senator **SPECTER**. All right.

What other incidents do you have, if any, as to Mr. C?

Mr. **TREANOR**. That is about it, Senator, on Mr. C.

Senator NICKLES. Senator, before we leave Mr. C, is this Mr. C the same Mr. C that when you started off, Mr. Treanor, you talked about in two arm injury incidents? When was the first allegation that an arm was broken?

Ms. WESTMORELAND. The first allegation that Mr. C broke an arm was in 1978. There was an allegation that he broke an arm in 1981 also.

Senator NICKLES. When in 1981?

Ms. WESTMORELAND. March of 1981. That is the Mike case that we testified about in the—at the February 11 hearing that we referenced earlier.

Senator NICKLES. We discussed the 1978 Mike case extensively last time, but I had not heard that an allegation was made that he had broken an arm in 1978, also.

Ms. WESTMORELAND. Yes, sir.

Senator NICKLES. In 1979, the Superintendent said that if Mr. C was accused of doing more violence, he would be terminated, but there is a report that there was a broken arm in March of 1981?

Ms. WESTMORELAND. That is correct.

Senator NICKLES. Is there some dispute over whether or not the arm was broken in March of 1981?

Ms. WESTMORELAND. As I understand it, from materials that we received from the Department, there is some dispute as to whether or not the arm was technically broken or just badly enough injured that it had to be put in a sling. But there is no question but that the report we received recounting the March incident states that his arm was broken.

Senator SPECTER. Well, was there an X-ray taken of the arm?

Ms. WESTMORELAND. Our records do not show that. They do not show the X-ray results.

I understand that an X-ray was taken.

Senator SPECTER. Well, was there a controversy as to whether or not there was a fracture?

Ms. WESTMORELAND. No controversy arose that we were aware of until after the February 11 hearing. It was reported in their reports that the arm was broken. After the February 11 hearing, the Department has since stated that the young man's arm was not broken, just badly injured.

Senator SPECTER. But there is a report in existence prior to the February 11 hearing which categorized the injury as a fracture?

Ms. WESTMORELAND. As a broken arm is the phrase they used.

Senator NICKLES. I have an additional question about Mr. C.

In reference to the broken collarbone, did that occur at Whitaker?

Ms. WESTMORELAND. No, that was not at Whitaker. That was at D&E.

Senator NICKLES. Thank you. I need another point clarified. After the broken arm incident in March of 1981 was Mr. C's employment terminated?

Ms. WESTMORELAND. He was terminated this January. This January of 1982.

Senator NICKLES. In January of 1982, 10 months after the latest arm incident, his employment was terminated.

Is he an employee now?

Mr. TREANOR. He is appealing his termination, as I understand, Senator.

Senator NICKLES. In January of 1982 his employment was terminated. Mr. C is no longer an employee of the DHS but he is appealing to the Merit Board for reinstatement?

Mr. TREANOR. Correct.

Senator NICKLES. Thank you.

Senator SPECTER. Senator Metzenbaum has just a few questions to ask at this time.

Senator METZENBAUM. Mr. Treanor, regardless of what the children's adjudication status, there is no justification for them to be abused while they are in these institutions. However, I want to get clear in my own mind the kinds of children with respect to which we are dealing here.

As I understand it, and I have some figures here, out of 642 students or children totally, 171 of them were in the institutions because they were in need of supervision, is that correct?

Mr. TREANOR. That is right, Senator.

Senator METZENBAUM. What does that category encompass?

Mr. TREANOR. Truancy, runaway, beyond parental control.

Senator METZENBAUM. Beyond what?

Mr. TREANOR. Beyond parental control.

Senator METZENBAUM. But no violation of law?

Mr. TREANOR. No, sir.

Senator METZENBAUM. Just difficult children to handle but not really anything they had done wrong other than running away, but they had not been guilty of committing any criminal offense?

Mr. TREANOR. No, sir; in fact, that statistic of the number of staff in the institution really masks another problem which two of the young men who are with us today can speak to, and that is that children are taken into these institutions as status defenders, and while they are in the institutions, in an effort to escape from the institutions, they then do something that is in fact a criminal act and they are adjudicated delinquents.

Senator METZENBAUM. And of the other 642, that accounts for 171 in this 1980-81 report, which is about 30 percent. Then there is another 164 that are in the institutions because they are deprived, and I understand that includes those who are abandoned, those who are homeless, those who are destitute, those who have been abused by their parents, those who came from unsuitable homes, and they have done nothing wrong.

Mr. TREANOR. That is right, Senator. They have done absolutely nothing wrong.

Senator METZENBAUM. So that you have 335 out of 642 in the statistics who are children who really have—can hardly be held to be at fault other than the fact that they may have run away from home or something, but they certainly are not a criminal element in our society?

Mr. TREANOR. That is right. The statistics vary slightly from year to year. But the majority of juveniles in these institutions in Oklahoma are not delinquent.

Senator METZENBAUM. Then you have 307 that are delinquent. It is my understanding that of that 307, and you mentioned two of whom are present today, that they came in because they were in need of supervision or that they were deprived, and then they attempted to run away or to go AWOL. And in doing so, they committed some act that forced them to be adjudicated as a delinquent, is that correct?

Mr. **Treanor**. That is correct.

Senator **Metzenbaum**. So that actually we have a situation in which institutions which should be actually taking these children and moving them upward in the social stream, in many instances they move from in need of supervision or deprived to the point of being delinquent. Is that a correct conclusion?

Mr. **Treanor**. That would be my observation based on the records that I have reviewed, yes.

Senator **Metzenbaum**. Well, it is shocking to this Senator and I understand the problems that criminals in a penitentiary might create with guards, and still do not believe that it would call for abusive treatment. But here I think a more basic problem of individual cases of maltreatment, it would occur to me that it is the failure of the institutions to provide that upward mobility for the young people involved, but rather a kind of downward mobility that really means that everybody else in society will have a price to pay for a long period in the future.

Mr. **Treanor**. That seems to be the pattern.

I would point out two things, Senator Metzenbaum.

One is that approximately 85 juveniles in Oklahoma are held in the adult correction institutions. So in no case are we talking about the worst juvenile offenders in Oklahoma. They are waived to court. So even in the cases of delinquents, they are not the worst offenders.

Second, my review of material and discussions with experts in this matter leads me to conclude that the educational system and the vocational education system in particular is seriously deficient.

Senator **Metzenbaum**. As an expert in the field, one who has worked with children, is it your impression that the kind of treatment, abuse of treatment has been excessive and far more than that which would normally be used in the treatment of juveniles?

Mr. **Treanor**. Absolutely, Senator. There is no question about that.

Senator **Metzenbaum**. I thank you, Senator Specter.

Senator **Boren**. Mr. Chairman, could I ask a brief question?

Senator **Specter**. Sure.

Senator **Boren**. Is there any policy that the Department has in regard to the use of force? We have heard all these reports about excessive use of force.

Does the Department have any written standards or do they have any standard used in orientation? Do they have announced standards as to what is acceptable use of force and what is not acceptable use of force?

Mr. **Treanor**. During the period that we are discussing here, Senator Boren, it is roughly a 4-year period. There have been different standards, different rules, different regulations, different policies governing the use of force in restraints and reporting of child abuse. It is very confusing. The policies have changed constantly.

Senator BOREN. What I am trying to determine is whether the problem is that the Department did not develop sufficient standards for the use of force and clearly delineate those to the superintendents and all the employees in the Department, or whether you think that the most essential problem has been a problem of administration of those standards which were adopted? In other words, do they have the wrong standards and therefore fail in there? Or do they have appropriate statements as to use of force but then not administer these standards effectively? Where do you think the central problem exists?

Ms. WESTMORELAND. Senator Boren, I would just like to make an observation.

We have seen written standards throughout this period that state clearly the types of force you talk about are clearly unacceptable and beyond Department policy.

Mr. TREANOR. So both occur.

Senator BOREN. So I guess you are saying that the announced standards would not allow what you have determined to have happened in individual cases but you do not feel that those standards have been adhered to or properly enforced?

Ms. WESTMORELAND. That is correct.

Senator BOREN. What about in these various cases like Mr. C and the others that you have talked about? Have you interviewed Mr. C, for example? Have you talked with him and asked for an explanation or have you interviewed the superintendent or the investigative people from the Department to ask them why action was not taken against him sooner or to ask them to explain?

Several times today questions have come up in which there is not anything in the report which indicates one way or another exactly what happened in regard to whether there were X-rays, or for example, why they lifted up a person. In short there are many unanswered questions.

Have you, while looking at the records, gone to the people who have been accused of improper behavior and interviewed them, to ask them why they took these actions and why they would have used force in this manner?

Ms. WESTMORELAND. We discussed these matters with the investigators and with the administrators and superintendents. We found very difficult to get people to discuss general policies and practices with us. They wanted specific cases in each instance.

Since we did not receive the bulk of these reports until we were in Oklahoma, it was very difficult for us to go through case file by case file, and every time we tried to talk about policies, we were cut off by the people who said let us talk about specific incidents, and that was impossible to do.

Senator BOREN. At this point—like Mr. C, for example—you have not called him in and demanded that he say why he did these things or to ask if he felt he was justifiably fired or if he should have been fired sooner or whatever?

Mr. TREANOR. I did interview the past superintendent and the current superintendent both who supervised Mr. C, and I did raise this case and why he continued to be employed. And frankly that was not very enlightening, what I found.

Senator BOREN. What about the merit board? There has been reference to the merit review board which, for the benefit of the other members of the Committee, is not a departmental board, it is the State merit system, much like a State civil service commission which is an umbrella that covers personnel decisions in all agencies.

When employees are dismissed, how many of these appeal to the State merit board for reinstatement? I guess what I am getting at, do you feel that the State merit laws have problems? According to some of the news articles I read, the State merit system reinstated some of the people who were finally terminated and who appeared from the testimony earlier to have been some of the worst abusers. I believe that one or two of them were reinstated.

Do you feel that there is a possible problem with the State merit system as well as with the departmental procedures in regard to personnel actions?

Ms. WESTMORELAND. It is my understanding that in some cases people were terminated and reinstated by the merit board.

We asked repeatedly if the department ever exercised its right to appeal an adverse merit board decision. We were told no one could remember a case where anyone ever appealed a reinstatement.

We also found out that the department has the authority generally to transfer authorities from one job to another. It was also stated to us that it was the policy of the department to try to transfer an employee who is reinstated after heing terminated for abusing children to a position where he did not work with children. Even though it was stated policy, it was not consistently followed. So even though the department had to work with the merit board system, all the avenues for dealing with problem reinstatements do not appear to be exercised.

Senator BOREN. One last quick question.

What about the various schools? I know we have a range of institutions. You have mentioned some of them by name, like Taft, the D&E Center, Helena, Pryor. There are group homes in Tulsa and Oklahoma City, I believe, and other institutions.

Is there an attempt made to separate juveniles by category? I am very concerned about the statistics cited by Senator Metzenbaum which he read in terms of putting what we would call status offenders in institutions with what we would call court committed for having committed acts, which would be a felony if adults were involved.

Is there any attempts by gradation to separate the young people between institutions—In other words, have you found that or are they all of one kind mixed together in the various institutions?

Mr. TREANOR. Senator, most of the young people who are committed to the care of the department wind up at the Rader diagnostic and evaluation center in Sand Springs.

In that center you will have deprived children, status offender and delinquent young people, boys and girls, in the same facility. Here is the monthly population report.

Senator BOREN. Is that not where they are first sent for testing?

Mr. TREANOR. Yes, sir.

Senator **Boren**. That was always my impression, and then they are to be sent to other centers depending on the results of that testing and evaluation.

Mr. **Treanor**. Once a determination is made about placement at the Rader center, and the length of time that that takes can vary, I was told that a typical stay is 2 to 3 weeks, the longest is 2 to 3 months. But when I toured the institution, I met an 11-year-old boy who had been there for 4½ months.

Senator **Boren**. Those are the so-called status offenders?

Mr. **Treanor**. No, these are the——

Senator **Boren**. These are the ones who are adjudicated——

Mr. **Treanor**. As neglected.

Senator **Boren**. They go to Whitaker.

Mr. **Treanor**. And then the status offenders also go to Whitaker. Some of the status offenders. See, there you have a mix. They are not delinquent at Whitaker.

Then if you look at some of the—then there is a sort of gradation at Taft. You find status offenders and delinquents mixed together. Then as you get to the Boley School for Boys, you find mostly delinquents, very few status offenders. And even at Helena, which is now closed, there were status offenders with boys. At COJTC in Tecumseh you have a mix of status offenders——

Senator **Boren**. So you find problems in terms of procedures used at the diagnostic center in terms of the method used to separate out one type of person from another?

I always felt that in our adult correctional system, we should try to separate those who are repeat offenders from those who hopefully had a maximum chance for rehabilitation.

Do you find that they are not following very good procedures there in terms of separating out the various kinds of offenders?

Mr. **Treanor**. Well, I would say they do a very poor job of that. The problem is, as I mentioned, at Taft they are not delinquents. Basically they are status offenders.

But the placement, the bottom line placement question which you alluded to, Senator, in the February hearing is the inappropriate placement of the deprived and neglected, and most, if not all, of the status offenders in any institution, at all. I reviewed the 1979 statistics as reported to the Federal Government for these different institutions, and I found that the group homes which you spoke of in February, your role in getting those established, operated at capacity for the entire year. There was a great need for those.

I found some of the institutions were operating under capacity. There seems to be a general feeling in this field of juvenile justice that if you have an institution, a facility, there is a bureaucratic driving force to place young people in that facility, to keep the facility going, to keep the per diem costs down, and that tends to override the judgment about what is in the best interest of the child.

Senator **Boren**. So you see a need to deinstitutionalize and move into smaller community based institutions?

Mr. **Treanor**. That is the philosophy of the Juvenile Justice Act, Senator.

Senator. **Boren**. Thank you.

Senator SPECTER. All right, Mr. Treanor, you covered two points so far. First, the specifics on your conclusion as to excessive force and the specific cases on your conclusion that repeated use of excessive force had been tolerated by ranking officials of the department of human services.

Now, do you have—now you have brought with you to the hearing today three of the youngsters who were in the institutions, correct?

Mr. TREANOR. Yes, sir.

Senator SPECTER. And you have brought these three youngsters as illustrative situations on the kinds of cases which you have found on a pattern through the records which you have reviewed and that you have testified about?

Mr. TREANOR. Yes, sir. We interviewed approximately 35 young people and we feel that these young people are illustrative of the kinds of young people that are in the system.

Senator SPECTER. All right.

I would like to move at this time to the testimony of David, whom we shall refer to by his first name, for what I understand is illustrative testimony on the issue of excessive force and also illustrative testimony upon the issue of the repetitive misconduct by employees of the department of human services which was not dealt with, is that correct, Mr. Treanor?

Mr. TREANOR. Yes, sir.

Senator SPECTER. We will refer to David by only his first name. He is 16 at the present time. According to the records provided to me, he, at the age of 13, was, as the record showed, "dropped" on a doorstep of the department of human services; that he was a status offender only.

According to the records provided to me, David has been categorized by the institution as a bright young man with an IQ of 120. He is praised in the department of human services' assessment for his ability to construct his thoughts logically and rationally and ability to comprehend and process information by drawing from practical experience rather than from formal education. And despite the many disruptions in his schooling, his academic achievement is at or above his grade level.

David, before you begin, the committee wishes to express our appreciation to you for cooperating and getting at the facts, and we are interested only in the facts obviously, and only in the truth. You have provided a signed statement heretofore for the committee which has been made available to the Senators in advance of the hearing.

We would like to proceed at this time for you to testify as you have in your statement and, Mr. Treanor, where David comes to points which amplification would be appropriate from other cases, it would be appropriate from the committee's point of view, the subcommittee's point of view for you to add to that so that the picture will be full as to his testimony in the broader picture.

Mr. TREANOR. Yes, sir.

Senator SPECTER. David, before you start as to your testimony, being not on the staff, I would appreciate if you would raise your right hand so that we can swear you in.

Do you swear that the testimony you are about to give will be the truth, the whole truth and nothing but the truth so help you, God?

DAVID. I do.

Senator **SPECTER.** We have asked you for that, David, because that is our procedure.

[Pause.]

Senator **SPECTER.** Senator Metzenbaum has brought forward a good suggestion, as he customarily does, and that is to say a word or two to relieve any tension which you might be feeling.

I met with these young people in the anteroom beforehand, Senator Metzenbaum, and said to them what I shall be pleased to repeat now, that just relax, we know that you are unaccustomed to being in a Senate hearing room and unaccustomed to being under television lights, and it is obviously a novel experience for you. It is going to be easy, a lot easier tomorrow than it is today. You relax and nobody here among the four of us are interested in anything but the facts as you know them. And it is not a difficult situation. Nobody is going to press you or cross examine you in any way or be difficult.

OK, David, please proceed.

TESTIMONY OF A JUVENILE, DAVID

DAVID. My name is David. I am 16 years old. When I was 12, my dad told me he was moving to Arizona without me. I took off on my bike to Arizona but I went the wrong way. After my father left, I ran away from Cushing to Tulsa. After 5 days, I called the cops and tried to turn myself in. They said you got here, you can get back home. I went to the Tulsa youth shelter. It was pretty nice.

Then I went to juvenile court. They sent me to the Methodist Boys Ranch in Gore. That is about 150 miles from Cushing. After a month, I ran away and went home. The juvenile court put me with my cousin, but that did not work out. The next thing I knew, I was at the Rader D&E. This was in 1979. I was there for 2 months. I was tested but they did not tell me anything about myself or what kind of work I could do when I get out. Once I spent 48 hours in solitary confinement. Another time, one of the staff jumped on me and hit me. I did not complain. I did not know about the student representative program.

Mr. **TREANOR.** Senator, could I point out here, and this is an illustrative example.

Virtually everyone of the dozens of children that we interviewed were either not aware of the student representative program as it is called in campus, the advocate defender program as it is called on the State level, or they did not report incidents because they did not believe that advocate defender would do anything for them. So there was a complete lack of confidence in that system. The kids felt that they would get in trouble, really, for snitching, as they put it, if they were to use the programs. So there was great reluctance to use the program.

Senator **SPECTER.** David, before you return to your prepared and signed statement, you just testified that once you spent 48 hours in solitary confinement.

Why were you placed in solitary confinement?

David. Well, in my cottage, we have to go out in the afternoons, outside, and we was kicking this ball, me and another student, and it went out near the fence and we took off running for the ball, and I kept on going. And he ran over the fence and security got me and took me to the detention for attempted AWOL.

Senator **Specter.** So you were running after a ball which was in a baseball game?

David. No. We was just outside.

Senator **Specter.** You were outside playing ball but the ball rolled away and you went after it?

David. Yes; and he just kept going and jumped over the fence.

Senator **Specter.** And you jumped over the fence to go get the ball?

David. No, I did not; I stayed in the yard.

Senator **Specter.** You stayed in the yard?

David. He went AWOL.

Senator **Specter.** He went AWOL. But you stayed in the yard?

David. Yes.

Senator **Specter.** And you were placed in solitary confinement for 48 hours?

[David nodding head.]

Senator **Specter.** You have to say yes or no, David.

David. Yes.

Senator **Specter.** And how old were you at that time?

David. About 13.

Senator **Specter.** You just testified that on one occasion, one of the staff jumped on you and hit you.

What provoked that, if anything?

David. Well, it was time to go to bed, and we was talking and stuff in our rooms, and they kept telling us to be quiet and we would not be quiet. And he was going to take me to the time-out room and I did not want to go.

Senator **Specter.** What is the time-out room?

David. A little room where they put you in for like 45 minutes or so.

Senator **Specter.** That is a disciplinary room?

David. Yes.

Senator **Specter.** And you were noisy at night and you were to be taken to the time-out room but you did not want to go?

David. Yes, sir.

Senator **Specter.** So what happened next?

David. He hit me and he took me to the time-out room.

Senator **Specter.** Took you to the time-out room and hit you?

David. Yes. He did in my room. He drug me to my room, he hit me, and then he grabbed my arms.

Senator **Specter.** How big was he?

David. He was bigger than I was then. I was pretty small then.

Senator **Specter.** What did he hit you with, his fist?

David. His fists.

Senator **Specter.** And where did he hit you?

David. In the back of the head.

Senator **Specter.** Once?

David. Once.

Senator **Specter**. OK. Would you proceed?

Senator **Metzenbaum**. What is the solitary confinement? What does that mean?

David. Juvenile cells.

Senator **Metzenbaum**. How big?

David. With just the bed, toilet, you know.

Senator **Metzenbaum**. And can you talk to others or are you by yourself there?

David. You are by yourself but you can holler to others in other cells.

Mr. **Treanor**. Senator, I have been in them, and they are just like an adult prison cell. But there are no bars. They are just closed in. It is very hard to have contact with anybody else.

Senator **Metzenbaum**. You were 13 years old at that time?

David. Yes, sir.

Senator **Specter**. All right. David, would you proceed with your written statement?

David. Then I was sent to Whitaker. I must have been about 12 or 13. It was really awful. Two days after I got there, I was jumped on and choked by a security guard. He was the meanest guy in security. I was paddled at school.

Senator **Specter**. When you say it was really awful, what do you mean by that, David?

David. I did not like it at all.

Senator **Specter**. Why?

David. Because all the hassles I went through with security.

Senator **Specter**. Could you move the microphone closer to you?

David. Because of all the hassles that I went through with security and house parents.

Senator **Specter**. You say 2 days after you got there you were jumped on and choked by a security guard?

David. Yes, sir.

Senator **Specter**. What, if anything, did you do to provoke being jumped on and choked?

David. After I got there, there was another small boy in the cottage and they jumped on him and they had this kind of like board and they was talking about jumping on me, too. And I told them jump on me if they was going to, and then they called security, the house parents called security, and they said I was threatening the students and they was going to take me to security. And I would not go. And then Mr. C——

Senator **Specter**. This is the Mr. C that was testified to earlier?

David. Yes, sir.

Senator **Specter**. And what did he do to you, if anything?

David. He got me around the nape of the neck and picked me up and choked me.

Senator **Specter**. And then you next said that you were paddled at school?

David. Yes, sir.

Senator **Specter**. What did that involve?

David. Just when you talk out in school and stuff, they give you like——

Senator **Specter**. All right. Will you proceed with your statement but move the microphone just as close to you as you can.

Mr. **Treanor**. Senator, if I can amplify on the paddling in school since David has mentioned that.

I did interview the principal at school at Whitaker and virtually every student we talked to who had ever been at Whitaker report numerous occasions where they were paddled in school. The scene, as it is described to me, is that students, if they are late, they line up outside the principal's door, sometimes six or seven students in a line, and they go in and they take three swats for being late, and they get disciplined, this is with a wooden paddle, big wooden paddle. The teachers have used paddling also in their classrooms.

I would just want to point out that at Whitaker we are talking about roughly half the young people are deprived and neglected, and the others are status offenders, they have been physically abused in their own homes by their own parents and by other people in their home, and then they are put in an institution where they are regularly treated to this kind of physical force in school. And the students'report on school was, in all cases, extremely negative as a result of the physical force.

Senator **Specter**. All right.

David, would you proceed with your written statement?

I think you got to the point up where you said you were paddled at school.

David. Yes; I was jumped on and choked by four men in about September 1980.

Senator **Specter**. What provoked that, if anything?

David. Whenever I went to Central Cottage, they said I was verbally abusing the staff in there and forced security to come over there. And they was all mad that they had to come over there after me and stuff because they were always messing with me. And they picked me up behind my—my arms behind my back. One security had one arm, another one had another arm, and they slid me up the wall. And one grabbed my throat and pulled my hair and screaming at me and dropped me. They held me up there for about 5 minutes and I could not use my arms when I fell, and I could not catch myself.

Senator **Metzenbaum**. Now, all you did was verbally abused them? Had you hit anybody?

David. No.

Senator **Metzenbaum**. You just used words and called them names; is that what you are saying?

David. Yes, sir.

Senator **Metzenbaum**. Did you kick anybody?

David. No, sir.

Senator **Metzenbaum**. And four people——

David. Yes, sir.

Senator **Metzenbaum**. Thank you.

Senator **Specter**. Was this Mr. C, too?

David. No; he was not involved in this.

Senator **Specter**. Will you proceed, please, David, with your written statement?

David. I was constantly shackled and hog tied by the staff. It happened to me at least 45 times.

Senator **Specter**. You say it happened at least 45 times?

David. Yes, sir.

Senator Specter. How are you able to give an approximation which is that large, David?

David. Because I stayed in Walnut Cottage and just about every other day or so, I would get shackled up or hog tied.

Senator Specter. When you say shackled, what do you mean by that?

David. Shackled, my hands are cuffed or just my legs. When I say hog tied, I mean my hands behind my back and feet drawed together.

Senator Specter. And that was done about every other day?

David. When I was in Walnut. Maybe not every other day but it happened a lot.

Senator Specter. And what, if anything, did you do to provoke that?

David. They say physical—I mean verbal abuse to the house parents.

Senator Specter. Verbal abuse to the house parents?

David. Yes; when I went to Central Cottage of Walnut.

Senator Specter. What did the verbal abuse amount to? What did you say?

David. I was just cussing out the staff.

Senator Specter. Would you proceed?

David. I lay on the floor in Central Cottage for 4 or 5 hours. It was hard to breathe. I would get really mad. I really wanted to run away. I did not know why they were treating me like this. I knew about prisons but I did not know places like this existed for children.

When I complained to the superintendent, he gave me work time—scrubbing the walls and things like that. I still did not know about the student representative—advocate defender—program. At Whitaker, all the students, including me, got slapped around by the staff. I got so desperate to escape that I stole a truck from Whitaker. I got caught with the other boy I was with. He was just as smart as me, but they said he could not read or write and sent him to a hospital in Enid for the mentally retarded. I went to juvenile court and then got sent to Boley.

Senator Specter. Now, is this incident involving the truck that you just testified about the first time that you had ever been charged with doing anything wrong?

David. Yes, sir.

Senator Specter. Proceed, please.

David. Even before I got to Boley, I learned from the other kids about different kinds of crimes I never knew about. They told me about you can break into a house or store and steal things. I got a real education about these kinds of things at the Rader D&E and Whitaker. Now I like to steal.

Senator Specter. David, on the point that you make here about being taught how to steal, is that subject frequently discussed by the young people in the institution?

David. Yes, sir; that is just about all they talk about, stealing something or the times when they get high or something like that.

Senator Specter. And when somebody like you is there simply because you do not have a home, is that an introduction into a future life of crime?

David. Yes, sir.

Senator **Specter.** And what kind of people were you associated with there?

David. Juveniles, and some INS, and some people that were adjudicated INS, but they did crimes that they did not get caught on.

Senator **Specter.** They had already been adjudicated as to conduct which would be felony if they had been adults?

David. Yes, sir.

Senator **Specter.** And how old was the oldest of those whom you were put in with?

David. Well, I was in, like at Whitaker, I was in a cottage for kids my age, but still I associated with older kids.

Senator **Specter.** How old was the oldest that you associated with?

David. About 16 or 17. In the major cottage, one of the biggest cottages in there.

Senator **Specter.** David, would you proceed, please?

David. I was sent to Boley for 5 months. After that, I made parole and was sent home. When I got back to Cushing, I started using what I had learned at the Rader D&E, Whitaker, and Boley. I broke into approximately 30 houses and stores.

Senator **Specter.** You say you broke into 30 houses and stores?

David. Yes, sir.

Senator **Specter.** In effect, you were burglarizing them?

David. Yes, sir.

Senator **Specter.** All right. Proceed, please.

David. I got caught on two. I had a lawyer but when he was not there the sheriff and his deputies hit me to get me to sign a confession. I was put in the same jail as adults.

Senator **Specter.** Now, how old were you at the time when you were put in the same jail as adults?

David. This is when I was 15.

Senator **Specter.** And have those adults been convicted of crimes?

David. I do not know. Some of them was like in there like public drunk, and they threw me in the drunk tank when I first get there, and then they would—and then I stayed there a couple of days and I was with trustees, people like that.

Senator **Specter.** When you were with those adults, did you have any conversations like you have already described where you learned more about how to commit——

David. I talked to them about stuff. Some of them, like this Johnny Garretson, he was in McCallister, and he was going in for pistol whipping this lady, and he was telling me about McCallister and stuff.

Senator **Specter.** And when you were put in with those adults, did you learn more about how to commit crimes?

David. Well, no, not really.

Senator **Specter.** OK. Proceed, please.

David. I was put in the same jail as adults. I spent 2 weeks in the Payne County Jail.

On October 8, I returned to Boley. On April 17, Mr. Treanor and Ms. Westmoreland came from the U.S. Senate. They talked to some of us students. Afterward, a youth guidance counselor—I will not say his name publicly because they will hold it against me when I go up for parole—came to the cottage and told some of the students that he would pay a six-pack of Coke if the students that snitched on the house parents to the people from the Senate were beaten up.

Senator **Specter**. So you actually heard an employee of the Department of Human Services say that?

David. Yes, sir.

Senator **Specter**. Proceed, please.

David. For about 8 minutes, seven guys beat up John real hard, some of it on his head. The two YGS's on duty just pretended they did not notice.

Senator **Specter**. And what is a YGS?

David. A youth guidance specialist.

Later John went voluntarily to detention to get away from these guys. When he got there, two staff jumped on him and beat him up. He had a ruptured eardrum afterward. Two of the staff got fired. That is very unusual at Boley.

Senator **Specter**. How do you know that two of the staff jumped on John?

David. I do not know for sure. That is what he told me when he came back from—they let him out. They were going to keep him in there for 24 hours.

Senator **Specter**. But how do you know that he suffered a ruptured eardrum?

David. Because he had to go to the city hospital.

Senator **Specter**. And he told you he had a ruptured eardrum?

David. He cannot hear out of his ear.

Mr. **Treanor**. Senator, I reviewed the Department's report in this instance and they agree that John had a ruptured eardrum as a result of this incident and detention.

I also interviewed the nurse at the Boley School and she confirmed that for me also. He was—and in this case he was held down by one staff member while another staff member choked him and punched him in the ear.

Senator **Specter**. Do the reports show what provocation, if any, led the staff to beat up on John?

Mr. **Treanor**. Apparently he——

Ms. **Westmoreland**. The reports show that John had gone to detention for protection from other students, and when he got there, they wanted him to take his belt and shoes off. That is standard practice. He thought he was there because he was misbehaving and he did not want to take his belt and shoes off. And he got into an altercation with the staff because he resisted orders and was verbally abusive.

Senator **Specter**. Was there any confirmation that John had been beaten up by the other boys as a result of his having snitched?

Ms. **Westmoreland**. Not in the report that I saw.

Mr. **Treanor**. But I did discuss it with a number of boys on my second visit to Boley.

Senator **Specter**. What did you find?

Mr. **Treanor**. There seemed to be a general feeling that the boys in the cottage, based on their observations and discussions, that

that in fact was what happened. I did not interview the actual staff people involved.

Senator **Specter**. All right.

Would you proceed, please, David?

David. Once I saw a staff member with a pistol. He was a cottage manager. I want to get out on parole. I hope talking to the Senate does not mean I will have to stay at Boley longer.

When I get out on parole, I will not get in any more trouble. I am going to make my mom and dad proud of me instead of stealing.

This statement is true. I am making it voluntarily to the Senate Subcommittee on Juvenile Justice.

Senator **Specter**. David, were there any drugs anywhere that you saw, in any of the institutions operated by the Department of Human Services?

David. Yes, sir.

Senator **Specter**. Where?

David. Whitaker, Boley. I seen some in D&E.

Senator **Specter**. What kind of drugs?

David. Speed, downers, pot.

Senator **Specter**. And was that known to the officials of the Department of Human Services?

David. I could not say that for sure.

Senator **Specter**. What is your conclusion on it?

David. They probably know about it.

Senator **Specter**. Why do you say that?

David. They know just about everything that goes on there. That is what they get paid for. They should know.

Senator **Specter**. And how are those drugs obtained?

David. Well, I cannot say for sure if the house parents bring it in or not, but I know they come in when people come off passes.

Senator **Specter**. Are there any precautions used at the institutions to stop drugs from being brought in in that manner?

David. Strip searches. They strip search your belongings but they still can get them in.

Senator **Specter**. Senator Metzenbaum.

Senator **Metzenbaum**. I have no questions.

Senator **Specter**. Senator Nickles.

Senator **Nickles**. Are we going to come back to the John case? I would like to know why John was roughed up and also what was done about it. That is not really directed at David.

Mr. **Treanor**. The gentleman who actually, by all accounts, threw the punch that injured—ruptured the boy's ear was terminated by the Department.

Senator **Nickles**. That man was terminated. What happened to the other employee? Is he still employed by the Department?

Mr. **Treanor**. As far as we know, he is still working at Boley Center.

Senator **Nickles**. What about the allegation that John was roughed up by six or seven other students. Has that been substantiated?

Mr. **Treanor**. It has been substantiated to the extent that I discussed it with two of the boys who are here and with some others, and there were not any major discrepancies in the accounts that I got, but I did not check them with the staff people that were involved, Senator.

Senator NICKLES. OK. Thank you.

Senator METZENBAUM. The one boy is deaf in one ear now? The ruptured eardrum caused deafness?

DAVID. He says he cannot hear out of his ear. He is at COJTC now. They sent him from Boley to COJTC after that happened, I guess, for his protection because they kept on jumping on him.

Mr. TREANOR. We requested the Department that this particular young man, John, and also Stacy, who is with us today, be transferred to another institution.

Senator METZENBAUM. Mr. Treanor, what do you think will be the impact on this young man—these two young men and young lady testifying? Has there been any assurances given by the Tulsa authorities on that subject?

Mr. TREANOR. Well, it is hard to gage exactly what the impact is going to be, Senator, but certainly the—it is—the whole philosophy of putting young people in these kinds of institutions is, first, of course, protection of the community to the extent it is necessary, but the second is for the juveniles, in particular rehabilitation. It is positive reinforcement and role models that they lack for whatever reason in their home environment.

Senator SPECTER. Mr. Treanor, I do not think you are responding to the Senator's question.

Senator, I think that we have good reason to conclude that the Oklahoma officials will respect these young people for coming here and there will not be retaliation. The Governor of the State has been most cooperative, Governor Nigh. The officials from the Department of Human Services have been cooperating with this investigation. They are going to be present here tomorrow. I have met with their counsel. That is an issue which I think would be appropriate to raise tomorrow.

It is not possible to get ironbound assurances realistically, but I have every expectation that these young people will be respected for what they have testified.

Senator METZENBAUM. How do the other young people in the institution with you feel about your coming to testify before the Senate committee? Have they said anything?

DAVID. They have not said anything to me. Like normally if it is somebody that is pushed around a lot, then they would just use that excuse to jump on them, saying that they are a snitch or something.

Senator METZENBAUM. It takes some courage for you to come. We appreciate all of you.

Senator SPECTER. Senator Boren.

Senator BOREN. David, you mentioned in your statement that for a long time you did not know about what you called the student representative, the person that is supposed to be on the staff to help you if you have a problem like this, where you have been mistreated.

How long were you in the various institutions before you found out?

David. I never found out until I went to Boley because at Boley on its door it says Student Defender, and I started asking people what it meant, and they told me.

Senator **Boren.** Did you ever go to the student defender at Boley?

David. Yes, I went to him before over things.

Senator **Boren.** Did you feel that he was sympathetic or unsympathetic?

David. He seems like he might be sympathetic but he never does anything about it.

Senator **Boren.** Do you have any place to turn in a situation like this where you are being subjected to physical force when you should not be, or when you are experiencing the kinds of things that you said you could not believe that these kinds of conditions would exist anywhere? Did you have anybody, any adult on the staff, or teacher in the school, or anyone else to whom you could talk? Were you left only with the other young people to talk to? I am not asking you to name names but were there any adults at all that you felt were sympathetic to you in the institutions?

David. There was one lady up at Whitaker I remember I could talk to about things.

Senator **Boren.** But you felt she was not in a position to help you, she would just listen to you sympathetically?

David. Right.

Senator **Boren.** What about the schooling? What kind of schooling did you get? During the day did you go to what we would call regular school, regular classes?

David. It is called regular school but it is, like I do not know, at Boley their school system is messed up. You get kicked out of school for anything and stay kicked out for 3 days. During that 3 days during schooltime, you have to do work time like that.

Senator **Boren.** Did you go to school at the institution or did you go to the regular public school?

David. At the institution.

Senator **Boren.** At the institution.

And what did you think about the schooling that you got?

David. The schooling, they just give you the books and stuff and tell you to do it. They do not—like regular school days, they explained it on the chalkboard and stuff. They do not do this at Boley. They just give you work and then some classes like math and stuff, they give you the same work over and over.

Senator **Boren.** Thank you.

Senator **Nickles.** May I ask two brief questions?

David, did you see the other kids beat up John?

David. Yes, sir.

Senator **Nickles.** Do you allege that several students were bribed by a State official to beat John up because he talked to a Senate Committee?

David. Yes, sir.

Senator **Nickles.** I visited Boley. Were there any reprisals after my visit during which I talked to several of the youngsters there?

David. No, sir.

Senator **Nickles.** Didn't you say earlier that there were?

DAVID. That is because he said something about a certain houseparent that most people get along with, but he still does, you know, abuse.

Senator NICKLES. Did your statement say that a State employee offered the students a six-pack of Coke if somebody would beat up John?

DAVID. Yes, sir.

Senator NICKLES. Did you see John get beaten up?

DAVID. Yes, sir, by about seven guys.

Senator NICKLES. Was he beaten up badly?

DAVID. Yes, I would say he was.

Senator NICKLES. Did he rupture his eardrum while he was beaten by the students or did that happen when he went into detention?

DAVID. That happened when he went into detention.

Senator NICKLES. Were these students six or seven guys your size?

DAVID. Yes. Some smaller than me.

Senator NICKLES. Were they jumping on John because one of the houseparents that they liked said to get him for talking to the Senate investigators?

DAVID. Yes, sir.

Senator NICKLES. Can other people confirm that incident?

DAVID. Yes, sir.

Senator NICKLES. Has anything happened to that houseparent because of that occurrence?

DAVID. No, sir.

Senator NICKLES. To your knowledge, he is still there?

DAVID. Yes, sir.

Senator NICKLES. You mentioned the fact that two employees got into a fight with John in detention. Has only one or both of them been fired?

DAVID. The way I have heard houseparents talk, that they have just been suspended. I do not know if they were fired or not.

Senator NICKLES. We will ask the State officials tomorrow.

Let me ask you just one other question, David. I am concerned about you being out of the school.

How did you get out when you were in Cushing? Did they release you?

DAVID. I got out on parole.

Senator NICKLES. You got out on parole. Did you immediately start breaking into houses?

DAVID. I was out for about 2 weeks and was doing all right. Then I started running around with dope people that I always run around with, and we started breaking into houses. And mostly what we were stealing would be money or drugs or something.

Senator NICKLES. Do you realize that people might shoot people for breaking into their houses?

DAVID. Yes, sir.

Senator NICKLES. Do you realize how dangerous that is?

DAVID. Yes, sir.

Senator NICKLES. Do you know that as soon as you are an adult you may have to serve a long term in Big Mac if you keep that up?

DAVID. Yes, sir. One of the people that I was burglarizing with, pretty close friend of ours, is in McAlester now. He just went last week sometime for 6 years.

Senator NICKLES. In the last part of your statement you said that you wanted to get out of Boley. I am concerned, though, about somebody who would say, "Yeah, I broke into 30 houses, and they caught me in a couple of them". That is a pretty serious crime.

DAVID. Yes, sir, I know.

Senator NICKLES. I do not think that you have a very bright future if you get out and start breaking into houses. You might be in McAlester in a very short period of time. I hope you will choose a different course of action.

Has someone tried to counsel you? When I visited in Boley, I was impressed with some of the people I met, especially the advocate defender and the chaplain. I thought they had some good people that would be willing to try to help you.

Have you found that to be the case?

DAVID. No, sir.

Senator NICKLES. Have you tried to get help?

DAVID. I talked to the student representative before but it did not help me.

Senator NICKLES. Have you ever talked to the chaplain?

DAVID. Yes.

Senator NICKLES. Did you get any response from him?

DAVID. I did not get anything out of it.

Senator NICKLES. It takes two to reform your life. I hope that you will be able to do so.

I applaud you for coming before this committee and appreciate your giving your viewpoints on some of the things that are going on. But I am also very concerned about your future, David, when you get out of the school.

When do you estimate you will get out?

DAVID. It comes past April yesterday. I go home the 25th.

Senator NICKLES. Are you 16 now?

DAVID. Yes.

Senator NICKLES. You will go back to Cushing?

DAVID. Yes, I go home with my mom in Arizona.

Senator NICKLES. When you go back into public school will you be a sophomore?

DAVID. Junior.

Senator NICKLES. A junior?

DAVID. Yes.

Senator NICKLES. Well, I wish you well and I hope that if you are paroled you will stay in your own house.

DAVID. All right.

Senator SPECTER. David, I share what Senator Nickles has had to say to you about your determination to lead a law-abiding life.

I know that Bruce Cohen, the chief counsel of the subcommittee, has talked to you about that matter at some length and you have assured him your determination to be a law-abiding citizen.

What has gone through your own mind on that subject and what kind of decision have you made as to your future conduct?

David. When I go down to Arizona, I am going to try to get into voc tech school and take radio electronics, and when I get out, work on computers and stuff, programing.

Senator **Specter**. Do you think you have learned your lesson by the experiences you have gone through so you will not want to go back to any kind of institution or jail?

David. Yes, sir.

Senator **Specter**. And you are up for parole in about 30 days?

David. Yes, sir.

Senator **Specter**. OK. Thank you very much, David.

Senator **Boren**. Mr. Chairman, I would just like to ask David as a favor to me, when you have your parole proceedings, would you write me a letter and tell me how your parole proceeding turns out?

David. All right.

Senator **Boren**. And then I would really be interested if, later on, you would let me know how you are doing in school. I think one of the things you have to do, and I join with Senator Specter and Senator Nickles in wishing you well, you have to be patient at first. You may have to go back and take one or two additional courses in order to get ready to do this voc tech training that you are going to do. But I wish you well and I wish you would write me a letter after your parole proceeding and let me know how it went and what you plan to do after that.

David. All right. Thank you.

Senator **Specter**. Mr. Treanor, what investigation was customarily used by the Department of Human Services?

Mr. **Treanor**. It was not a thorough investigation of a serious allegation.

Senator **Specter**. What evidentiary basis is there, if any, for that conclusion?

Mr. **Treanor**. There is quite a bit, Senator. There are two points here.

One, there were instances which were simply not reported for a variety of reasons which we have addressed this morning and David was illustrating. Second, though there are cases where the incidents were reported, but the documents that we have been able to review indicated that there was in fact a number of impediments put in the way of a full and thorough investigation.

Senator **Specter**. Could you be specific as to what you are saying here?

Mr. **Treanor**. Yes, sir, I can give you one example is the case of the Helena School for Boys.

Senator **Specter**. Now, you are referring to records from the Department of Human Services?

Mr. **Treanor**. Yes, sir.

Senator **Specter**. And a specific case. Would you identify the case?

Mr. **Treanor**. This is a case of a boy named Tony, and it alleged that he was being hog tied on the floor, that is with his arms and legs pulled up behind his back, handcuffed and then tied together. He was kicked in the head by the superintendent of that facility.

We have reviewed documents which indicate that there were a number of witnesses to this. Some of the witnesses in fact told investigators that the incident had happened; others said that it had not. We have also obtained a document that is called an audit of that facility, and in that audit there are interviews with many staff people and these are confidential interviews, and I would just—to read you a short sentence from one of them.

After he told the story, that is the story of this incident with Tony, two investigators along with some others involved, all those who told the truth began to have problems with the superintendent. This employee stated that he knew that the superintendent knew that the chains were used on the students all the time, et cetera, et cetera. There are several other examples in here, Senator, which I will not read, where people say basically the same thing. They were truthful to the investigators and, as a result, it was the employees who were truthful who began to have problems with the superintendent.

Senator SPECTER. Are there any incidents specifically besides that one with respect to the issue of the customary investigation made by the institution?

Mr. TREANOR. Here is another example where a student was handcuffed so tightly that they cut off his circulation in his wrists. The finding in this case was another one of these other findings, and the main reason for that is that the person who should have been interviewed in this case had been transferred to the Rader D&E Center, and there was in fact no further investigation.

Senator SPECTER. Was there one incident where there was an allegation of rape which was not thoroughly investigated?

Mr. TREANOR. Yes, sir. That is a very recent incident. This is a case of a young man, who is now 14, but he has been in the Department's care and custody since he was 7 years old. He weighed 50 pounds, and he was placed first at the Rader D&E. After being placed there, he moved all the way through the system we have been discussing this morning. It is acknowledged, by all involved—including himself—that he is very intent upon escaping.

However, during his time in the institutions, just to give you some examples prior to the incident that I am going to describe, he was a boy who was stripped down to his underwear and forced to walk around, by the superintendent at Helena, as recently as this year, January 5 of this year. He is now held at the Rader D&E Center.

When I visited the Rader D&E Center several weeks ago, I asked to—for the superintendent to show me around. He did so. I did not expect to find this particular young man there, Senator, because we had written—that is, the subcommittee had written, on April 7, to DHS to locate this particular young man. They wrote back to us on April 13, saying that he could not be located.

By chance, I asked to go into the cottage where this young man was being held in solitary confinement. I made it known that I wanted to talk with him, but before I was able to do so, an attorney representing the Department, an attorney from Covington and Burling, went into the jail cell, told the boy, within my hearing, told the boy that he did not have to talk to me, and that basically, he did not have to say anything to me.

The boy had been in solitary confinement at that point for about 4 or 5 days. He did talk to me for 10 minutes.

Senator SPECTER. Is that before or after the comment by the other attorney?

Mr. TREANOR. This was—I talked to him immediately after this comment by the attorney.

Senator SPECTER. So the comment by the attorney did not dissuade the boy from talking to you?

Mr. TREANOR. I believe it had a chilling impact, Senator.

Senator SPECTER. But the boy did talk to you?

Mr. TREANOR. Yes, but he was very reticent, he was depressed and morose, and he was not very forthcoming. So I talked to him for 10 minutes, and I left. Later we requested—the subcommittee requested documents on recent incidents, and it came to light that in fact the very night before I had been in to see this boy, as part of the rehabilitation program, the staff had opened the cell and let three boys go into his cell, closed the cell behind them, these are solid metal doors, you cannot see anything, and while they were in there, they were doing what is described in the report as peer pressure counseling with him.

It is reported in the report of the Department that in fact what went on is that this boy was seriously sexually molested. He was forced to masturbate some of these fellow students. He was forced to commit other sexual acts, and this went on repeatedly. This was all in—most of this was in the report.

I later telephoned the boy.

Senator SPECTER. On what date did that allegedly occur?

Mr. TREANOR. On April 21, Wednesday night, I am sure of, and I was there on a Thursday. I think it would be April 21.

Senator SPECTER. And that is in a report filed with the Department of Human Services?

Mr. TREANOR. Yes, sir. In my conversation——

Senator SPECTER. Was there an investigation of that by the Department of Human Services?

Mr. TREANOR. Yes, sir, there was an investigation, but it was a most odd investigation. This boy in question here was taken to the Tulsa Police Department. He was given a lie detector test, as to the truthfulness of his account. He passed the lie detector test. The bulk of the investigation in this case basically is the Department maintaining that the lie detector test was not valid, and they said you have a trained operator, et cetera, et cetera. So they just dismissed the boy's passing the lie detector test.

The boy said he would take another one. They never gave a lie detector test to any of the other boys involved. They denied the charges. And that was where the matter rests, as far as the Department is concerned. It was investigated, there was no substantiation, and he is still being held in that same facility, in a different cottage now, but in the same facility.

Senator BOREN. How old was this young man?

Mr. TREANOR. Senator, he is now 14 years old.

Senator BOREN. Did I hear you right, when you said that he was 7 when he was first——

Mr. TREANOR. Yes, sir, looking at his records, he was 7. They said before he weighed 50 pounds. He was 3 feet, 8 inches tall.

Senator BOREN. He was 7 years old when he was first brought to the diagnostic center?

Mr. TREANOR. When he first came, got involved in this system, yes, sir, according to his records.

Senator BOREN. When you say became involved in this system, how? Surely he was not sent to the diagnostic center, was he, when he was 7?

Mr. TREANOR. No, it was not open then, you are right, Senator. He was placed at the Oklahoma Children's Center at age 8.

Senator BOREN. And that is at——

Mr. TREANOR. At Taft.

Senator BOREN. When he was 8 years old?

Mr. TREANOR. Yes, sir.

Senator BOREN. Was there ever any attempt made to place him in foster care, or——

Mr. TREANOR. The record, Senator, this is in 1976, at age 8, I guess, he was placed in foster home there, a few days later the foster mother took ill. The boy returned home. The home said to be unprepared for him. That is one foster home attempt. He was placed in some other institutions, not run by the Department, at some point.

This is definitely a troubled boy. He reads only at the first grade level.

Senator BOREN. I am really troubled by a child that young being put in an institution of this kind.

Have you found other instances of children that age?

Mr. TREANOR. I talked to a boy who was 11, at the Rader Center. The attendance records that we have indicate that there are a number of 11 and 12 year olds.

Senator BOREN. What about others below 10 years of age?

Mr. TREANOR. I do not think so, at this point, Senator.

Senator BOREN. I am shocked that we would have somebody 7 years old in this kind of situation, even if he demanded some kind of intensive care.

Mr. TREANOR. He has 13 escape attempts, at least, I think there is more, just from the 1 institution, and he has 3 cases of arson, as part of rebellion, attempt to escape. He has—this boy's life has focused around getting out of these institutions.

Senator NICKLES. Mr. Chairman, can I follow up on that?

Mr. Treanor, your visit with him, was on April 20. Did you visit with him the day before, or day after?

Mr. TREANOR. The day after, Senator. Thursday.

Senator NICKLES. Did you try specifically to visit with him? Were you going to talk to him about the incident at Helena, in which he was parading around in his underwear?

Mr. TREANOR. Yes, sir, there were other instances involving this boy, and we thought that it would be an interesting case for us to talk to.

However, the Department maintained that they did not know where he was, in a letter they wrote us. So I frankly had no hope of seeing the boy. I just stumbled across him by chance.

Senator NICKLES. Did you accidentally meet him at D&E?

Mr. TREANOR. Yes, sir.

Senator NICKLES. On the day after the episode, what prompted him to go to group therapy during which he was abused?

Mr. TREANOR. Escape attempt.

Senator NICKLES. When he tried to escape, the supervisors caught him. They felt that he needed counseling, and they decided to have him counseled by his peers. Then did you say, four or five went in and sexually abused him?

Mr. TREANOR. I think it varied, on different nights. He told me on the telephone that he had been repeatedly assaulted, over a 2-week period. The report of the Department speaks of one night three or four boys. They are named in the report.

Senator NICKLES. Are you talking rape, or are you talking about sodomy?

Mr. TREANOR. A number of things. Basically he was the one forced to do things.

Senator NICKLES. Was he forced into these acts unwillingly?

Mr. TREANOR. Yes, sir. This is based on my conversations directly with him. And he has passed a lie detector test on his version of what happened.

Senator NICKLES. To your knowledge, did the State officials know anything about this in advance? You said a series of repeated events occured.

Mr. TREANOR. No. My understanding of the sequence of events, it was a day or two after I was there. Saturday following that he told a staff member at the Rader D&E Center what had happened.

Senator NICKLES. The staff investigated the event, and had him take a lie detector test. He passed it, and they questioned it.

Do we know, what, if anything, has happened to the four or five individuals that were involved in the abuse?

Mr. TREANOR. I believe they are still there. I think this one case, one of the boys may have been moved to a different facility. But this boy that we are speaking of, he is in a different cottage. So he is no longer in the same cottage with those boys.

Senator NICKLES. Did this happen right before, or right after your visit?

Mr. TREANOR. Right before. It did not come to light until a few days later. First the sexual attacks, and then my visit, then it coming to light.

Senator NICKLES. Did the boy tell you about it?

Mr. TREANOR. No, Senator, he did not. When I visited him in person, when I spoke to him on the phone 2 weeks later, he did tell me about it.

Senator NICKLES. Do you think he is telling you the truth?

Mr. TREANOR. The lie detector indicates that he was telling the truth, and I felt, based—having read the report, and my questioning of him over the phone, that he was basically giving me exactly the same version that was contained in the report.

Senator NICKLES. My son is the same age as the abused youth and I find this an extremely appalling occurrance. I would hope that action would be taken by the State to insure that this type of event would not happen again.

Mr. TREANOR. Senator, these are his records. This is what happens when you are in one of these places for a number of years. You accumulate a lot of records.

But as I indicated before, despite all these records, and despite his years in these institutions, the boy has an intelligence level, according to the tests conducted in the record, where he is capable of learning. He reads at first grade level. He spells at second grade level, and he does arithmetic at the first grade level.

Senator **NICKLES**. Thank you.

Senator **SPECTER**. But you are saying there are no educational opportunities for him there?

Mr. **TREANOR**. There are educational opportunities, Senator, but for whatever reason it has not worked with this young man.

Senator **SPECTOR**. Senator Nickles asked you what offenses were involved, and unpleasant as they may be to specify, they should be specified for this record, Mr. Treanor.

Mr. **TREANOR**. Well, he told me—this is now based on my telephone conversation with him, that he had been forced to masturbate a particular boy.

Now, I met that boy when I was visiting that cottage. This particular boy is enormous in size. He could be a football tackle, that is how large this boy is. He also told me that he had to perform oral sex acts with some of the boys. One boy was not involved, he was in the cell, but not involved, but the others were.

Senator **SPECTER**. Mr Treanor, is one of the young people here, Stacy, illustrative of the conclusion as to not current investigations on the serious allegations?

Mr. **TREANOR**. Yes, sir, he is very illustrative of that, and in my opinion, he is also illustrative of the kinds of retaliation that results from the lack of the forthcoming investigation.

Senator **SPECTER**. All right.

We will hear from Stacy now.

Is there anything that you would like to say by way of introduction, Mr. Treanor?

Mr. **TREANOR**. Yes. Just to point out that when I went to the Boley School where Stacy was at the time, he was very helpful to me. He was the boy who I approached and asked information about the other boys. He is a boy who—there had been some problems at home, but when he entered the system he was a status offender, and as a result of his escape attempt, he is now adjudicated a juvenile delinquent.

Senator **SPECTER**. You say when he entered he was a status offender?

Mr. **TREANOR**. Yes, sir.

Senator **SPECTER**. And what was the underlying reason that he was a status offender?

Mr. **TREANOR**. His family had a lot of problems, and he was beyond control of his family.

Senator **SPECTER**. He had no family to live with?

Mr. **TREANOR**. Yes.

Senator **SPECTER**. All right, Stacy, we would like to have your testimony now. And as it is our practice, will you rise so that we can administer the oath?

Do you swear that you will testify to give the truth, the whole truth, and nothing but the truth, so help you God?

STACY. I do.

TESTIMONY OF A JUVENILE, STACY

Senator **SPECTER**. How old are you?

STACY. Sixteen.

Senator SPECTER. Where are you from?

STACY. Roland, Okla.

Senator SPECTER. What juvenile institutions have you lived in?

STACY. Whitaker, D&E, Taft, and Boley.

Senator SPECTER. Were you ever put in detention there?

STACY. Yes, sir.

Senator SPECTER. How long were you put in detention?

STACY. For 48 hours.

Senator SPECTER. Where was that?

STACY. D&E.

Senator SPECTER. That is Rader D&E?

STACY. Yes, sir.

Senator SPECTER. Why were you put in detention for 48 hours at Rader D&E?

STACY. AWOL.

Senator SPECTER. How did it happen that you were AWOL?

STACY. Took out the window of the cottage that I was in, and went over the fence.

Senator SPECTER. Were you also put in detention at Whitaker?

STACY. Yes, sir.

Senator SPECTER. For how long?

STACY. About 5 days.

Senator SPECTER. Why were you put in detention at Whitaker?

STACY. The same reason, AWOL.

Senator SPECTER. Until recently, were you at the Boley School for Boys?

STACY. Yes, sir.

Senator SPECTER. What cottage were you in?

STACY. Lincoln.

Senator SPECTER. Was it very rough?

STACY. Yes, sir.

Senator SPECTER. Could you be specific as to what you mean by that?

STACY. Well, the students there is more broader than I am, and stronger. They used me as a punching bag.

Senator SPECTER. You said they were broader than you are?

STACY. Yes.

Senator SPECTER. You mean bigger?

STACY. Yes. The same cottage that David is in now.

Senator SPECTER. You say they used to use you for a punching bag?

STACY. Yes.

Senator SPECTER. How many times did that happen?

STACY. About twice.

Senator SPECTER. Were you badly hurt?

STACY. Yes, sir.

Senator SPECTER. Was any action taken by any of the staff as a result of your being used for a punching bag?

STACY. No, sir.

Senator SPECTER. Did you make any complaints about it?

STACY. Yes.

Senator SPECTER. Who did you complain to?

STACY. I called Mr. Treanor, down there, I called from up here, and he told me to go to the defender, and the next day I did, and he said he could not do anything about it.

Senator SPECTER. Did you help Mr. Treanor and Ms. Westmoreland meet with other boys in your cottage?

STACY. Yes, sir.

Senator SPECTER. And what, if anything, happened to those boys, or what happened after Mr. Treanor and Ms. Westmoreland left Boley?

STACY. Well, about 30 minutes later, John jumped on us, on some students, jumped him in his room. The house parents sat there like nothing was going on.

Senator SPECTER. Had John talked to Mr. Treanor and Ms. Westmoreland?

STACY. Yes, sir.

Senator SPECTER. Did you get jumped on by a student?

STACY. Yes, sir.

Senator SPECTER. What happened?

STACY. The house parent walked up after, when he started, the house parent walked down to the mop closet, and she hollered at him.

Senator SPECTER. Did you hear what the house mother said to him?

STACY. She just hollered, and told him to stop, after about 2 minutes.

Senator SPECTER. Did he say why he was jumping on you?

STACY. He said for snitching on one of the house parents.

Senator BOREN. I did not understand.

STACY. For snitching on one of the house parents.

Senator SPECTER. You mean for talking to the Senate investigators?

STACY. Yes, sir.

Senator SPECTER. Did any of the house parents see it happen, when you were jumped on by the other students?

STACY. Yes, sir; there was one that seen it.

Senator SPECTER. And what action, if any, did that person take?

STACY. She just walked down to the broom closet, and stepped inside for about 2 minutes, and then she came outside and hollered at him, and told him to stop.

Senator SPECTER. But she was in sight of you at the time you were being beaten up by the other student, and she took no action?

STACY. Yes, sir.

Senator SPECTER. What injuries, if any, did you sustain?

STACY. Busted lip.

Senator SPECTER. What happened after that?

STACY. I went out and talked to the crew chief, and he told me he could not do nothing about it, I went down to the cottage, and I went down there and they started to jump me again, and I took off the door, went out to CIC, and checked myself in.

Senator SPECTER. Who started to jump you again?

STACY. Another student.

Senator SPECTER. Do you know why he started to jump you?

STACY. The same reason.

Senator SPECTER. How do you know that?

STACY. He said he was going to beat me again for the same reason, so I took on out.

Senator SPECTER. For the same reason, for snitching to the Senate investigators?

STACY. Yes, sir.

Mr. TREANOR. Senator, I have the records that show that he checked himself, voluntarily, into the detention facility, for his own safety.

Senator SPECTER. Was there any investigation made by the officials of the department of human services, as a result of your being beaten up in these instances?

STACY. As far as I know, there was not.

Senator SPECTER. Nobody came to you and talked to you about it, or asked you any questions about it?

STACY. Yes, Bill Treanor did, about a couple of days later he came down there, and I talked to him about it again.

Senator SPECTER. But did anybody come to you, from the Oklahoma Department of Human Services, to try to find out why you were beaten up?

STACY. No.

Senator SPECTER. Senator Nickles, any questions?

Senator NICKLES. Stacy, were you at Boley when I was there?

STACY. Yes, sir.

Senator NICKLES. Did you come into the room?

STACY. Yes.

Senator NICKLES. I was thinking that you did.

Did you, David?

DAVID. Yes.

Senator NICKLES. I was trying to picture when we visited before. Do you remember a lot of allegations that were made? I went in and had 20 individuals, tell me different things. I heard all kinds of stories, some of which I believed, and some of which I did not. Some of the cases sounded fabricated but others may have been accurate. With that many cases involved it was difficult to determine their authenticity. Stacy, are you telling us that you spoke to Mr. Treanor?

STACY. Yes, sir.

Senator NICKLES. Were you hit in the face because you talked to Mr. Treanor?

STACY. Yes.

Senator NICKLES. Did someone else try to jump you?

STACY. Yes, sir.

Senator NICKLES. Do you think they did that on their own initiative, or do you think a State employee was trying to get them to do that?

STACY. I believe so, because they went and bugged me right after, the next couple of days, when they jumped me. It was Saturday, and they got me Sunday.

Senator NICKLES. David, do you think that a State employee encouraged action against John because he talked?

Stacy, do you think, is that is correct? Is that true?

DAVID. See, when Bill Treanor was down there, there were some other boys in the cottage, too, and the thing they were talking about was with some of the house parents at Boley. Some of the students got their favorite house parents, and those house parents buy them Coke, and that is when the house parents told them what to do.

Senator **Nickles**. Do you really think the house parents told them to do that? Is is possible that there is a close relationship between some of the boys and the house parents, and when they understood that someone had said something against the house parents, they acted on their own anger?

David. I do not know about Stacy, but I know about John, because I heard it myself.

Senator **Nickles**. You heard a State employee offer to buy a six pack of Coke?

David. Yes, sir.

Senator **Nickles**. Did he offer students a six pack of Coke to get them to beat John?

David. Yes, sir.

Senator **Nickles**. You said there were six or seven boys that roughed up John. Was the employee going to buy everybody a six pack?

David. He did not buy anybody a six pack.

Senator **Nickles**. Do you feel like a State employee was involved in encouraging somebody to rough you up, Stacy?

Stacy. Yes, sir.

Senator **Nickles**. Were you talking about the bigger boys?

Stacy. Yes.

Senator **Nickles**. You mentioned that you were used as a punching bag. Was that by the bully?

Stacy. Yes, sir.

Senator **Nickles**. Has that stopped? Evidently, you did complain. Did the house parent try to stop that type of abuse?

Stacy. No, sir, not really. They did not try to. They just moved me to a different room, where they can keep an eye on my room better.

Senator **Nickles**. Did they move you so you would not be in the same cottage?

Stacy. I was still in the same cottage, but they moved me to a different room.

Senator **Nickles**. Did the bully still pick on you like he used to?

Stacy. A little, but I am not down at Boley any more. I am at Tecumseh.

Senator **Nickles**. How does Tecumseh compare to Boley?

Stacy. It is like a motel.

Senator **Nickles**. Tecumseh is pretty nice?

Stacy. Yes, sir.

Senator **Nickles**. I have not been to Tecumseh, but I have been to Boley, and I noticed a difference between Boley and Taft. Have you been in Taft, too?

Stacy. Yes, I was there approximately 2 days, and then I went home.

Senator **Nickles**. You were released from Taft. Were you in Whitaker, too?

Stacy. Yes.

Senator **Nickles**. You have been in all of them. Have you been in Helena?

STACY. No, sir.

Senator NICKLES. Of all the schools, Tecumseh, you would say, was the best. Did you say it was like a motel?

STACY. Yes, sir.

Senator NICKLES. Did you think Boley is like a motel?

STACY. No, sir. No way.

Ms. WESTMORELAND. Senator Nickles, if I could break in for just a minute.

After we heard reports about Stacy and John, we were concerned, and called the department, talked to Mr. Mike Fogarty, and expressed concern, and asked that they do anything in their power to make sure that the two young men were all right. Legal aid informed us after that, that the department took steps to move John and Stacy to Tecumseh.

Senator NICKLES. John and Stacy were moved to Tecumseh as a result of the conflict so you would not have any abuse coming from other boys at Boley, is that correct?

STACY. Yes, sir.

Senator NICKLES. Were you moved primarily, as a result of the committee's instigation?

STACY. Yes, sir.

Senator NICKLES. Do you think you would have been moved if it had not been for the fact that the subcommittee expressed some concern for your safety?

STACY. No, sir.

Senator NICKLES. Are you concerned now, if you go back to Tecumseh, or if you were transferred to Boley, would you be concerned about your safety?

STACY. Yes.

Senator NICKLES. Are you concerned about going to Tecumseh?

STACY. Yes; Tecumseh is a lot nicer.

Senator NICKLES. But do you think the fact that you are testifying today, will cause other students, boys or girls, to harass you, or give you a hard time?

STACY. No, sir, all of them knew about it. They wanted me to come up here.

Senator NICKLES. Is that the people at Boley you are referring to?

STACY. The workers and the students.

Senator NICKLES. I met the superintendent at Boley, and left with the impression that he is interested in doing what is right. Do you have that same opinion?

STACY. Yes, sir.

Senator NICKLES. It seemed like he is interested in doing what is right, but you are saying that possibly some of the people under him have been looking the other way when some of the fights occur.

STACY. Yes.

Senator NICKLES. OK. Thank you.

Senator SPECTER. Mr. Treanor, what is your finding with respect to the treatment of the status offenders at the Oklahoma institution with respect to, first: detention; and, second, commingling with delinquents?

Mr. **Treanor**. Senator, I believe that the current detention practices are improper. First of all, because status offenders, the children, are detained at all. That is the threshold problem here. And second——

Senator **Specter**. Because they are detained at all?

Mr. **Treanor**. That is right.

Senator **Specter**. What, in your professional opinion, should be done with those in the status category?

Mr. **Treanor**. Well, in my opinion, and in fact, in the opinion of many State governments, what is done with all deprived neglect cases, and with status offender cases, is that they are either—if they cannot remain at home, they are put in foster homes, or if that will not work, then a group home. In any event, it is community-based, and for instance, David, who is from Cushing, would stay in a program in Cushing. He would not be moved 50 miles away, and taken away from his friends and his school, and everything else. That is, in fact, standard practice in Pennyslvania, and many, many other States.

Senator **Specter**. How many States are there left, where juveniles in status category, are actually detained?

Mr. **Treanor**. There are about half a dozen where—half a dozen States where it is still accepted practice. There are 22 States in which there are no status offenders held in secure facilities.

Senator **Specter**. And what is the situation with respect to the commingling with delinquents? What problems, in your professional judgment, does that pose?

Mr. **Treanor**. Senator, I could not say it better than David has in his testimony, about the kinds of influences that he was subject to. It is unfortunately a common story that has been documented for at least the last 100 years of learning behavior, that in fact if you want to look at it from what kind of vocational training are they receiving, in fact it is vocational training in a life of crime.

Senator **Specter**. All right.

Now, the third juvenile who is here today is Khristinna, and preliminarily, or before she testifies, of which the considerations is her testimony illustrative of?

Mr. **Treanor**. Senator, Khristinna is not a status offender, and she is not a delinquent. She is a case of what is called deprived and neglected in Oklahoma. In the opinion of professionals, and in the opinion of people who run these similar State agencies, in virtually every other State, there is no excuse whatsoever for her to be in the kind of institution that she is in.

Senator **Specter**. Anything else you care to say about Khristinna before we hear from her?

Mr. **Treanor**. No, sir.

Senator **Specter**. Khristinna, would you rise, please?

Do you swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Khristinna. I do.

TESTIMONY OF A JUVENILE, KHRISTINNA

Senator **Specter**. All right, Khristinna, you have given us a statement, signed?

KHRISTINNA. Yes.

Senator SPECTER. Would you proceed to read that statement, please?

KHRISTINNA. My name is Khristinna. I am 16 years old. I have been a resident at the Whitaker State Home for Children since March 20, 1981. For approximately the last 2 months I have lived in the honor room at Pine cottage. The kids who follow the rules the most live in honor rooms.

When I was 13 and my sister and two brothers and I were taken away from our parents because they had abused and neglected us.

Senator SPECTER. So you had never done anything wrong at all?

KHRISTINNA. No, I have not.

Senator SPECTER. OK, proceed.

KHRISTINNA. I am now in the permanent custody of the State, and hope to be adopted.

Before coming to Whitaker, I lived with two foster families and spent some time in the Claymore shelter.

On October 1, 1980, I went to the Rader D&E. I did not like the Rader D&E. It was like a prison.

Senator SPECTER. Why do you say, Khristinna, that it was like a prison?

KHRISTINNA. Because it was all locked up, you could not do anything. There was—the security guards came all the time to fight with the kids and everything else, and you could not do anything. You was on levels, and everything else. Even if you started crying because you missed home, they would stick you in TOR. I have been in TOR so many times I cannot even count.

Senator SPECTER. What is TOR?

KHRISTINNA. Time-out-room. You have a brick floor, like a cement floor, like the kind you drive on, and like a cement bed, I never got no pillow, or no blanket, or not even a mattress.

Senator SPECTER. And you spent all night there?

KHRISTINNA. I spent more than a night there.

Senator SPECTER. How long did you spend there?

KHRISTINNA. The most time I ever spent in there was 72 hours.

Senator SPECTER. Without a pillow or a blanket?

KHRISTINNA. Right, and it is very cold.

Senator SPECTER. Was this—what time of the year was this during?

KHRISTINNA. During the winter. And sometimes—well, I was in there, I was in the TOR room mostly in November, and a lot of times in December.

Senator SPECTER. And just because you were crying?

KHRISTINNA. Yes; because I was crying, and was upset, and I missed my sister a lot. She was sent off.

Senator SPECTER. Where did she go?

KHRISTINNA. She went to Whitaker State.

Senator SPECTER. How old is she?

KHRISTINNA. Right now, she is almost 15.

Senator SPECTER. OK.

Would you proceed?

KHRISTINNA. Before—on October 1—wait a minute.

Senator SPECTER. That is all right, you can repeat.

KHRISTINNA. I was strip-searched.

Senator SPECTER. Now, when you say you were strip-searched, just what happened to you?

KHRISTINNA. When I first went in there, they took me to the cottage, and made me take off all my clothes. I did not want to take them off: They made me take off all my clothes. Then they asked me about the scars that my parents had given me, like when my dad tried to cut off my arm, and stuff like that, and so on.

Senator SPECTER. Who was present with you when you were forced to take off all your clothes?

KHRISTINNA. A man security guard, and two women house parents.

Senator SPECTER. A man security guard?

KHRISTINNA. Yes.

Senator SPECTER. And two women house parents?

KHRISTINNA. Yeah. I know his first name.

Senator SPECTER. Excuse me?

KHRISTINNA. I said I know his first name.

Senator SPECTER. Well, we will omit that for the time being, Khristinna.

When you are strip-searched, is there anything more to the search than taking off your clothes?

KHRISTINNA. They look through your hair.

Senator SPECTER. Who did that?

KHRISTINNA. A woman house parent.

Senator SPECTER. OK. What happened next?

KHRISTINNA. You want me to go ahead and read?

Senator SPECTER. Please.

KHRISTINNA. The people who worked there treated me very roughly. For example, once I was very mad at another student because she said bad things about my parents. When I doubled up my fist and said I was going to kill her, a big security guard tackled me and twisted my arm up so far behind my back that I cried. Even after I begged him to, he would not let me up. My arm was very bruised after this.

I was very upset——

Senator SPECTER. And that happened to you because you doubled up your fist?

KHRISTINNA. Yes; she also threw milk on me.

Senator SPECTER. You doubled up your fist, and you said you were going to kill somebody?

KHRISTINNA. Yes; I was not really going to kill her. I was just going to punch her and get her attention.

Senator SPECTER. Well, I would say it is pretty obvious, judging from your size and age, that as tough as you might be with a doubled up fist, you could not do a whole lot of damage.

KHRISTINNA. No.

Senator SPECTER. OK.

Would you proceed with your statement, please?

KHRISTINNA. OK.

I was very upset while I was at the Rader center. Sometimes I was so upset, they would take me to the time-out room. Once when I kicked the door, they shackled me by handcuffing my hands in metal cuffs, binding my feet with leather restraints and then joined the two together. I was left like that for 10 or 15 minutes.

Senator **Specter**. And that happened to you just because you kicked the door?

Khristinna. Uh-huh. I was kicking "Another One Bites the Dust."

Senator **Specter**. You were doing what?

Khristinna. I was kicking—there is a song called "Another One Bites the Dust," and I was kicking the beats to it on the door.

Senator **Specter**. Khristinna, as a matter of procedure here, you are reading a statement, but you had prepared this statement. These are your own words, which you have given to our investigators?

Khristinna. Uh-huh.

Senator **Specter**. So what you are reading, you had put down yourself?

Khristinna. Right.

Senator **Specter**. This is your true story?

Khristinna. Right.

Senator **Specter**. You may proceed.

Khristinna. Then on January 8, 1981, I was taken to the children's medical center. I was taken there because I was emotionally upset. I kept remembering the bad things that happened to me. I would cry for my parents, because even though they had hurt me many times, I still loved them. I would also wake up at night crying for my sister. I also cried during the day for my sister.

The children's medical center helped me a lot, and I thought it was a good place. Still, I did not trust people who were nice to me then, and so I ran away and went to my parents' house in Tulsa. I did not like it there, and so I called my therapist at CMC. I stayed there the night and my parents drove me to the Rader center, and about a week later I went to Whitaker.

At Whitaker you have to earn points to get any privileges. You cannot do things like walk around campus, go to town, or go to parties unless you have earned points.

It is very easy to lose points. I have lost points for putting too much dip on my plate, for sleeping with one foot out of the covers, and for talking to the superintendent in the hall without permission.

Senator **Specter**. How do you know that you lost points for sleeping with your foot out of the covers?

Khristinna. Because when I woke up I did not have no points on the board, and they told me. Because I asked them why I lost it.

Senator **Specter**. Do you get points if you sleep with your foot in the covers?

Khristinna. No, that ain't it. See, there is this lady that is prejudiced against me. She does not like me at all. She does not mark the other girls down who keep their feet out of the covers, because it is hot.

Senator **Specter**. And when you say you lose points by putting too much dip on your plate, what do you mean by that?

Khristinna. See, you get 18 points a day, right?

Well, I was eating some salmon sandwiches, the fish things, and I put some dip on that, right? I only had a spoonful. There was another girl who had more than that. I think she had the whole container of dip on her plate, and just because I could not finish the whole dip, she made me lose all my points.

Senator SPECTER. KHRISTINNA. I notice you smoke quite a bit. I notice, obviously, you are pretty nervous here today. How old were you when you started to smoke?

KHRISTINNA. Six.

Senator SPECTER. OK. Would you proceed, please?

KHRISTINNA. Yes. I am always very scared and nervous, because I want to be adopted, and do not want to have restrictions on my record. I do not think these rules are fair. I am lonely a lot. I have acquaintances, but not friends. I am afraid to make friends, because people come and go too much. Some of the people who work here treat the kids very roughly.

A few days ago, Candra, who is 12, was very upset. To calm her down, a house parent tackled her to the floor, another house parent came into the room to help, and then called a female security guard who is very heavy, and who sat on Candra's head. This hurt Candra. The next day her face was covered with red blotches. Candra complained to the student defender.

Senator SPECTER. How big a girl is Candra?

KHRISTINNA. I would say she weighs about 115.

Senator SPECTER. What did she do which led the house parent to tackle her to the floor, as you described it?

KHRISTINNA. Well, the house parent went back to her room, to tell her what her restrictions were, because she was not going to do her job, because she had already done it five times that day.

Senator SPECTER. I am sorry, I did not understand that.

KHRISTINNA. She went back to—it is like a dorm, all girls sleep in there, except the ones in the honor room, and the house parent followed her and told her what her restrictions were, because she was not going to do her job again, she already done it five times that day.

Senator SPECTER. When you say not done her job, what job does she have to do?

KHRISTINNA. She has the game room, the living room, and the kitchen.

Senator SPECTER. What does she have to do?

KHRISTINNA. Well, the living room is big. It is about the size of this courtroom. Oh, what does she have to do? She has to vacuum the room, you know, clean the windows with Kleenex. They are big, too. And pick up all the chairs, and clean the legs on them, and clean the tables off, and wax the table, and make sure that the place is all straight, and in the game room you have to make sure that no ashes are on the pool table or news bar, and make sure that you clean the pool table and news bar spotless, and then mop and strip and wax the game room, and make sure all chairs are up on the floor, and make sure that you sweep it, and there has to be no dirt in any corners. If there is, you have to redo it.

In the kitchen she has to set the tables, and she has to clean tables off, she has to put the chairs on the tables, mop the floor. She does not have to do the dishes. Someone else does the dishes. Plus, when it needs stripping, she has to strip and wax the floor.

Senator SPECTER. Now, what did Candra do to lead the house mother to tackle her?

KHRISTINNA. What did she do? She already done the job five times that day, and was not going to do it again, the whole thing. She told her that that place, that she had done, was spic and span, and she is not going to work any more. Matter of fact, she was going to rest, because she was so tired. And so the house parent started to tackle her.

Senator SPECTER. When Candra complained to the house parent, do you know what happened?

KHRISTINNA. Yes, they had witnesses. They was going to call me, and I was out for something.

Senator SPECTER. Was there any disciplinary action taken, to your knowledge, against the house parent?

KHRISTINNA. No, but they are going to court about it.

Senator SPECTER. The student defender is?

KHRISTINNA. The lawyer in town, or something like that.

Senator SPECTER. But did the officials of the Department of Human Services take any action on their own?

KHRISTINNA. Yes, they did.

Senator SPECTER. What did they do?

KHRISTINNA. I cannot say. I do not really know, for sure.

Senator SPECTER. But they did take some action against the house parent?

KHRISTINNA. Yes, they did. Against both of them, and the security guard.

Senator SPECTER. And how long ago did that incident occur?

KHRISTINNA. Just this month.

Senator SPECTER. OK.

Will you proceed with your statement, please?

KHRISTINNA. Yes. I am not at Whitaker because I have done something wrong. I am at Whitaker because I do not have a home.

Lots of times students beat on other students. Only at Rader D&E, the house parents do not try to stop this. Only at Rader D&E. They call the supervisor on duty, and kids who are fighting may be handcuffed, only at Rader D&E.

The teachers in school, and the principal paddle students. Sometimes they hold you down to give you swats, especially if the student is in an unprivileged cottage. One teacher swats students real hard, some of his swats make you fly, and he punishes kids who misbehave in his wife's classroom, too.

Senator SPECTER. What do you mean by the swats make you fly, Khristinna?

KHRISTINNA. Well, for example, one time when Orrell was getting swats by a fiberglass paddle——

Senator SPECTER. How big was the paddle?

KHRISTINNA. About that big [indicating].

Senator SPECTER. Indicating about 20 inches?

KHRISTINNA. Yes, about that much.

Senator SPECTER. And how wide?

KHRISTINNA. Something about like that [indicating].

Senator SPECTER. About 5 inches?

KHRISTINNA. Yes.

Senator SPECTER. And how thick?

KHRISTINNA. Not more than one inch.

Senator SPECTER. What happened?

KHRISTINNA. He swatted Orrell—he tried his hardest to swat Orrell just as hard as he possibly could, and he is a big man, and well built, too, and he swatted him as hard as he could. He broke the fiberglass paddle on Orrell's rump, and he is a black, and you can see the bruises on him. I am serious, you can see them. It made him actually skid down the hall.

Mr. TREANOR. I interviewed the principal who she is speaking about, Senator. He is a very large man.

Senator SPECTER. And who was it who was struck by the man under the circumstance?

KHRISTINNA. Orrell.

Senator SPECTER. Is Orrell a boy or a girl?

KHRISTINNA. He is a boy, and he lives in Whitaker.

Senator SPECTER. And he is there for the same reason you are, that he had no home?

KHRISTINNA. No, I think he is INS.

Senator SPECTER. OK.

Will you proceed, please?

Mr. TREANOR. Senator, just for the record, I was referring to the principal, and Khristinna was referring to another teacher in the school.

KHRISTINNA. Yes.

I hope that I can leave Whitaker before August 1982. I would like to live with a family. When I finish school, I would like to be a social worker, or a band director.

Senator SPECTER. Why would you like to be a social worker?

KHRISTINNA. Because I like working with kids, and when some of the kids in my cottage are upset, I like talking to them. I think it is neat.

Senator SPECTER. That concludes your statement, Khristinna?

KHRISTINNA. Yes.

Senator SPECTER. And those are all your own words, which were in the statement?

KHRISTINNA. Yes.

Senator SPECTER. And are they all true?

KHRISTINNA. Yes, they are.

Senator SPECTER. Senator Nickles.

Senator NICKLES. Khristinna, you are in the band. What instrument do you play?

KHRISTINNA. Oh, God. I am a one-man band.

Senator NICKLES. Are you going to be able to make the trip?

KHRISTINNA. Well, I hope so. Mary is going to try to contact the guy who brought me up here, so I will not have to fly back to Whitaker today to go on the van, which is going to be a very rough trip, and——.

Senator NICKLES. But you are hopeful that you will be able to make the band trip?

KHRISTINNA. Everything is clear. They said everything was clear. I get to go, except I am hoping I can get to fly out to Orlando, instead of riding on the bus van.

Senator NICKLES. You mentioned strip searching. Was that at Rader D&E?

KHRISTINNA. Yes, it was.

Senator **Nickles**. You have never been strip-searched at Whitaker, have you?

Khristinna. No, I have not.

Senator **Nickles**. Now, David or Stacy, have you ever been strip-searched?

Stacy. No

David. Not at Whitaker.

Senator **Nickles**. It never occurred at any of the places?

Stacy. No.

David. I have been at Boley and D&E.

Senator **Nickles**. Were you at Rader D&E?

David. It is not on here, but I stayed in ITC for about 1 month, because they shut down Gemini Cottage, and they had all the delinquents in there. and they shut that down, and they moved us all to ITC for a month.

Senator **Nickles**. Did they find anything on you?

David. No.

Senator **Nickles**. Have you ever smuggled drugs in to one of the schools?

David. Have I ever?

Senator **Nickles**. Yes.

David. Yeah.

Senator **Nickles**. Some grass?

David. Yeah.

Senator **Nickles**. Did you ever smuggle in anything harder than marihuana, such as cocaine or heroin?

David. No.

Senator **Nickles**. Do you think the strip-search policy is needed to find some of the drugs that are coming in?

David. Well, I do not see why it is needed, because even though they do strip search us, it still gets in, anyway.

Senator. **Nickles**. Do you think it slows some of it down?

David. No—maybe, not really. Maybe it does.

Senator **Nickles**. Khristinna, how long have you have been at Whitaker?

Khristinna. A year and 2 months and 6 days.

Senator **Nickles**. Are drugs commonly found at Whitaker?

Khristinna. Yes, they are.

Senator **Nickles**. Can everybody get marihuana fairly easily if they want it?

Khristinna. Pretty easy.

Senator **Nickles**. Is it common to find any harder drug?

Khristinna. There has been some quaaludes, and some—what do they call it—no, it is not speed, purple microdot, and there has been some acid up there. There is some more besides that.

Senator **Nickles**. In your opinion, what percentage of kids at Whitaker have used or experimented with drugs on a regular basis?

Khristinna. I would say all of them. I am serious.

Senator **Nickles**. David, you have been at Boley. What would you say about Boley?

David. There is, maybe, I would say maybe four or five of them, of all the students at Boley do not mess with drugs, or smoke dope.

Senator **Nickles**. Is that 4 or 5 out of what, 130 students?

DAVID. 120, something like that. That is all they do, is sit around the cottage and talk about it.

Senator NICKLES. Is it done openly Stacy? Do you have any comment? You have been at Boley and Whitaker and Taft, and now you are at Tecumseh. Have you found an open use of drugs at those schools?

STACY. Yes, sir.

Senator NICKLES. Do you feel that the drug abuse problem is so extensive that you would almost feel out of place if you do not use drugs?

STACY. Yes.

Senator NICKLES. David, could you comment on that?

DAVID. I do not know, like the institutions that I have been to, they had hard stuff, like LSD, like she is talking about, acid. You usually have some smokes, or downers, or speed, like that.

Senator NICKLES. Would you feel out of place if you did not use it, and everybody else was using it?

DAVID. I am not ever going to use it again.

Senator NICKLES. You are looking for parole in a month, aren't you? [Laughter.]

Khristinna, would you say that a person might feel out of place if he did not participate in drug use? I have seen these cottages, and I do not know if they vary in different institutions, but in a cottage at Whitaker how many people live there?

KHRISTINNA. It all varies.

Senator NICKLES. Would you say 15 or 20 people?

KHRISTINNA. Yeah.

Senator NICKLES. Do you have usually a live-in house parent, or someone that is living there all the time?

KHRISTINNA. No, different shifts.

Senator NICKLES. Is there usually an adult supervisor, a State employee, that is there all the time?

KHRISTINNA. Yes, there is.

Senator NICKLES. Since marihauna has a destinguished aroma, aren't the supervisors aware of the drug activities?

KHRISTINNA. I would think so, because they found paint in our cottage.

Senator NICKLES. Has someone been sniffing paint?

KHRISTINNA. Yep.

Senator NICKLES. Have State employees tried to go through your belongings, to see if they could find quaaludes, marihuana, heroin, or whatever it might be, to get rid of it?

KHRISTINNA. Yes, they do.

Senator NICKLES. Have they been successful?

KHRISTINNA. Not all the time.

Senator NICKLES. Do students often find a place to hide it, so they cannot find it?

KHRISTINNA. Yeah.

Senator NICKLES. Did you say you were strip-searched at D&E, and not at Whitaker?

KHRISTINNA. What?

Senator NICKLES. You said you were strip-searched at D&E. Were they trying to find drugs, or were they fondling you, or anything like that?

KHRISTINNA. I was not abused in any way. I was hassled. They was trying to find drugs and stuff. But of course, I do not take none of them, so I do not see why.

Senator NICKLES. We do not have anybody here from Taft, but I was shocked. When I visitied there. I was meeting with almost half of the students I asked how many people were using, or had been using drugs. The response was unanimous; everyone raised their hand.

It bothers me that drug use is so common. I do not like the idea of strip-searches, but neither do I like the idea of youngsters being able to bring drugs in at will. I do not know whether we should strip-search visitors as well. I do not know the solution.

We will talk to people in the Department about this tomorrow. I think it is important that we curb the flow of drugs. We do not want these to be institutions where they teach people how to smoke dope, and how to break into houses, and to commit other crimes. These are supposed to be institutions that will provide an adequate substitute for a home.

Tina, did you say you wanted to be placed in a foster home?

KHRISTINNA. Yes, I was in one that—but my social worker did something, and they said, well, I had to go to Rader, and I do not think there was any reason to go to Rader, because I did not do anything wrong.

Senator NICKLES. Did you not get along with the foster parents?

KHRISTINNA. There was one I did not, because I got beat with an old fashioned rugbeater.

Senator NICKLES. Since that did not work out, you went back to Rader. Now, at 15 years old, you are hoping, to find a foster home, so that you can leave Whitaker.

KHRISTINNA. Yes, but I am 16.

Senator NICKLES. Do you hope that you will be able to get in a foster home?

KHRISTINNA. Well, my county worker is, but we have to get the legal opinions so that I can get adopted first.

Senator NICKLES. Have you let him know that you would like to be considered for adoption, or for placement in a foster home?

KHRISTINNA. Yes, I have.

Senator NICKLES. Are you optimistic that that may happen?

KHRISTINNA. Yes.

Senator NICKLES. When I was at Whitaker, I repeatedly heard people complain about being paddled. Have you been paddled?

KHRISTINNA. Yes, I sure have, for a stupid reason.

Senator NICKLES. What was the reason?

KHRISTINNA. I kissed a boy on the cheek.

Senator NICKLES. After you kissed a boy on the cheek, you were paddled. Were you hit very hard?

KHRISTINNA. Very hard. It left bruises. But I did not go to anyone about it, because I know they will not do anything about it.

Senator NICKLES. Is this a common practice. Have most of the students at Whitaker been paddled?

KHRISTINNA. All of them. At least once or twice, if not more.

Senator NICKLES. Do these students deserve the punishment they receive.

KHRISTINNA. Not really. I almost got swatted one time because a girl stuck a pen under my eye. I had to really explain to her what had happened. That is the way it goes, in most cases, but the kids are too afraid to explain, so they get three to four swats for just being in a fight, when they are getting beat up by other kids.

Senator **NICKLES.** In some cases are the paddlings justified?

KHRISTINNA. Some.

Senator **NICKLES.** Are the paddlings often not justified?

KHRISTINNA. Right.

Senator **NICKLES.** During our visit to Whitaker, I heard about a State employee who sat on a student while trying to contain him. Was that student trying to fight or high on drugs?

KHRISTINNA. Do you want me to explain?

Senator **NICKLES.** Yes.

KHRISTINNA. OK. You see, it is not because we are violent, or fighting, or anything. It is—mostly because we are upset about something, or we do not think it is fair that we are put on restriction, like some cases, and we will be crying, and everything, and we just do not want to be bothered, and the houseparent asks us to talk about it, we say we do not want to talk about it. They will back us up into a corner until we have to talk about it, and then we get so upset that we just lose control. They will cause us to lose control, and that is where, in most cases, kids get tackled. Especially in my cottage. They get tackled almost every night, and sometimes even three times a day, or something like that.

Senator **NICKLES.** Are the drugs prevalent on the campus?

KHRISTINNA. Yes: they also have a high school.

Senator **NICKLES.** Are the drugs so commonplace that people there can just walk out of class and go to the cottage to smoke marihuana.

KHRISTINNA. No, not like that.

Senator **NICKLES.** I want to keep the amount of drug abuse in perspective to avoid misconceptions.

Could you describe to me how often drugs are used?

KHRISTINNA. Well, everybody talks about it all the time. Matter of fact, when I first moved out of Pine, my best friend had just been at a home visit, you know, not home leave. She just stayed there for a while, and came back that day, and brought five joints back with her, and they did not really check. It was in her cigarette pack, and in other cases they go to the high school, not on Whitaker campus, in Pryor, and there are people up there that do sell drugs, and when they get the payroll, or if they have a job, they buy them and bring them in, and if they are in school they do not want to check them.

They say, hey, everything is OK. So they will not check them. Other ways they send acid under stamps.

Senator **NICKLES.** Students smuggle acid in under stamps?

KHRISTINNA. Yes.

Senator **NICKLES.** Could you explain that, please?

KHRISTINNA. OK. Like you have got a stamp, right, on your letter. When you get a letter. You see, they leave it a little dry so that you can peel it, and it will be acid under there, that you can stick in your mouth and get high on.

Senator **Nickles**. You also mentioned sniffing paint. Is that fairly common?

Khristinna. No, it is not that common. But the girls that was in Pine then are now in Fern, and they bought some paint in town. Some silver paint, from Ferguson's Paint, and they threw it in the bush. Then they had one girl meet her, you know, meet her at the cottage, make sure that she waited outside, she ran to the bush and got it, and stuck it in her pants, because her pants was so big, and so I guess they could not tell, and hid it under the mattress, and then did it at night when the houseparents were not aware of it.

She told Cookie that she had asthma, and that she is very sensitive. They did not notice that something was going on. In fact, they were not real careful, because they sprayed silver paint all over the toilet, and all over the walls.

Senator **Nickles**. Many allegations have been made about sexual abuse, in particular one incident that happened in D&E.

Have you seen incidents in which there were abuses between youngsters in the institutions?

Khristinna. I have been involved in it.

Senator **Nickles**. Would you care to explain further? You do not have to if you do not want to.

Khristinna. See, there is this guy, he is graduating, his name is Frank—and he was very cruel to me, in speaking, and there was no one around except for this one guy that worked at Whitaker, and he just walked by like there was nothing happening, and they also say that he brings beer and stuff on campus, and he acted like nothing happened, and then the same guy before that time invited me to a party, before I even know what he is like, and we went out to the lake, and when there was no houseparents around, he hassled me, and made me do it.

Senator **Nickles**. You are talking about—is that on the campus?

Khristinna. No, we went to a lake off campus.

Senator **Nickles**. Can you leave campus by getting a pass?

Khristinna. Yes, by campus, by supply——

Senator **Nickles**. You are talking about someone on campus who forced you?

Khristinna. Forced, yes. I reported it, but all they said they could do was sent him to Taft.

Senator **Nickles**. Let me ask Stacy and David.

Have you seen cases, particularly at Boley, of forced homosexual acts?

David. [Shaking head.]

Senator **Nickles**. Stacy?

Stacy. No.

Senator **Nickles**. Tina, you also mentioned that you liked the Children's Medical Center. Is that in Tulsa?

Khristinna. Uh-huh.

Senator **Nickles**. Did you feel that they were doing a good job, and were helping you?

Khristinna. Yeah, they did, but I did not state one reason why I ran away.

Do you want me to state it?

Senator **Nickles**. Yes.

KHRISTINNA. Because I was having flashbacks of my family and everything. They thought I was hallucinating, because I thought this one girl was my dad, and I tried to beat her up, so they put me on hallucination medicine, and tried to beef me up with medicine most of the time. I knew they was helping me. I could feel them helping me, but I could not do nothing, and I was not responsible for my actions.

After they had drugged me up so much, and I hate drugs, matter of fact, I hate taking medicine. Not unless I am going to die or something. So I had to get out of there. On my way home, my dad was trying to give me alcohol, and so I wanted to go back.

Senator NICKLES. Thank you.

Senator SPECTER. Senator Boren.

Senator BOREN. Khristinna, you said that when you first left home, that you were taken to court before you were put in the two foster homes? Where were you first taken when you left home for the first time? You said you and your sister were taken away from your home?

KHRISTINNA. Yes, we was put in foster care.

Senator BOREN. Who did they take you to? Did they take you to the county welfare department, or where did they take you first?

KHRISTINNA. Straight to the foster home.

Senator BOREN. Who took you there?

KHRISTINNA. A social worker of mine named Maggie Boggs.

Senator BOREN. She had been a social worker with your family at home? Had she been coming to your home before that?

KHRISTINNA. She just started in automatically.

Senator BOREN. She started coming to your home, and what did she do, just come in 1 day and say I think that you should be taken someplace else?

KHRISTINNA. No.

Senator BOREN. What happened?

KHRISTINNA. At school they found baling wire cuts on my back, and reported it to Maggie Boggs, and it was real deep, so they put butterfly stitches on it. Then she said, the next day, if we would not say anything about meeting her, she would come with the police to the house before my parents arrived. Because my parents are very mean, and alcoholics, too.

Then after that, she talked to them and made a mutual agreement to keep us in foster care 30 days. They had to sign the paper, and then we was allowed to come back.

Senator BOREN. Your parents signed the paper?

KHRISTINNA. Yeah, they did not want to sign the paper.

Senator BOREN. But then you went to a foster home, and you went to two different ones?

KHRISTINNA. Yes.

Senator BOREN. And then after that is when you went to Whitaker, is that correct?

KHRISTINNA. No. I went to two foster homes, and had to go back home, because I had been beat with an old fashioned rug beater, and stayed there until my dad really abused my sister real bad, and told us to pick up the phone and call them, and then tell them it was parent abuse, and then they took us to the shelter, and then I stayed there, then to Rader.

Senator Boren. Was it at the Claremore Shelter that you were taken?

Khristinna. Yes, it was.

Senator Boren. Did you receive good treatment there?

Khristinna. Yes, I did, and I also got to go to a public school.

Senator Boren. A public school. How long did you stay in the shelter?

Khristinna. About a month and a half.

Senator Boren. Now, you said a little later on when you were hoping to get adopted, or hoping to go back into another home, foster home, or to adoptive parents, you said someone was working with you now. I think you said your social worker, or——

Khristinna. Yes, Barbara Martin.

Senator Boren. She is your social worker. Is she the original one in the county that first started working with you?

Khristinna. No, she is not.

Senator Boren. She is a social worker at Whitaker?

Khristinna. No.

Senator Boren. Where does she work?

Khristinna. She is a county social worker at Tulsa, Okla.

Senator Boren. She is a county social worker at Tulsa, Okla.

Khristinna. Right.

Senator Boren. And you were from Tulsa originally, were you?

Khristinna. Yeah, I first lived in Tulsa, and then we moved to Claremont. That is where we got Maggie Boggs.

Senator Boren. But the social worker in Tulsa, does she come to see you at Whitaker?

Khristinna. Not very often. I think I have only seen her twice since I have been up there.

Senator Boren. Does she come to see you, come to talk to you when she is up there?

Khristinna. Yes.

Senator Boren. And she told you that she was going to try to work with you, in terms of trying to find adoptive parents, is that what she said?

Khristinna. Yes.

Senator Boren. So as far as you know, she is working with you now on that?

Khristinna. Right.

Senator Boren. And that is what you hope to do?

Khristinna. Yes, except that there is some layback in the courts in Claremont.

Senator Boren. A backlog?

Khristinna. No, they have not got all the thing straight like they was supposed to, so now there is this new social worker in Claremore working on it, and does not even know the story, so she has to pick her out and learn the story before she can get the backup work from the judge to get it approved.

Senator Boren. I see.

Thank you.

Senator Specter. Khristinna, just one further followup, and that is, when you testified about the sexual activity, was that with other students?

Khristinna. Yes, that was with a guy that was up there, that was a student.

Senator **Specter**. He was a student?

Khristinna. In Culmore Cottage.

Senator **Specter**. I just want to be sure that it did not involve anybody on the staff.

Khristinna. No, it did not.

Senator **Specter**. And you did make a complaint about it, and they followed up on the investigation of it?

Khristinna. Uh-huh.

Senator **Specter**. Thank you.

Senator **Boren**. I just want to ask Mr. Treanor one question.

As far as Whitaker is concerned, is that a secure facility? Do they have children that have been adjudicated by the courts as delinquents there at Whitaker?

Mr. **Treanor**. Senator, there are no delinquents there. I believe, by the Department it is classified as an open campus, but in fact it operates what would generally be considered to be a closed campus, secure campus. Young people cannot move around at will.

Senator **Boren**. Well, no, they still have regulations on coming and going.

Mr. **Treanor**. Yes, but basically under a lock and key most of the time. In Khristinna's case, she goes to the regular high school. So there are certain exceptions to that.

Senator **Boren**. Oh, you do?

Khristinna. Only to band.

Mr. **Treanor**. There are exceptions, but generally speaking it is a very controlled place.

Senator **Boren**. All right.

Senator **Specter**. I would like to call Delores Briscoe to come forward.

Have David and Khristinna and Stacy sit back in the first row, please.

Mr. Treanor, prior to testimony from Ms. Briscoe, would you summarize briefly the circumstances which led you to interview her on the first occasion?

Mr. **Treanor**. Senator, when I was in Oklahoma in February, I read an article in the Muskogee Phoenix, which was basically an interview of Delores, and some of the things that she had to say in the interview seems to me to be worth pursuing, and I contacted her at Langston University, where she was a student.

I went up to Langston. We spent approximately 3 hours in discussions, and at that time, in working with her, I wrote up a statement with her, sentence by sentence. Then she was given the statement.

Senator **Specter**. When you wrote up the statement with her, sentence by sentence, were they her words which you put in the statement?

Mr. **Treanor**. Yes, sir.

Senator **Specter**. Did she sign the statement at that time?

Mr. **Treanor**. Yes, sir, Senator, she did.

Senator **Specter**. Did you testify about that statement on the hearings on February 11?

Mr. **Treanor**. Yes, I did, Senator.

Senator SPECTER. OK.

Ms. Briscoe, would you rise and be sworn in, please?

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. BRISCOE. I do.

Senator SPECTER. What is your full name, please?

TESTIMONY OF DELORES BRISCOE, STUDENT, LANGSTON UNIVERSITY, LANGSTON, OKLA.

Ms. BRISCOE. Delores Briscoe.

Senator SPECTER. And you are currently in college?

Ms. BRISCOE. Well, I go back to school in August.

Senator SPECTER. And where have you been in school?

Ms. BRISCOE. Langston University.

Senator SPECTER. Could you put that microphone very close to you, please?

Ms. BRISCOE. Langston University.

Senator SPECTER. What year are you in there?

Ms. BRISCOE. Well, end of the freshman.

Senator SPECTER. End of the freshman year.

All right. Do you have a statement before you which you have given to Mr. Treanor?

Ms. BRISCOE. Yes.

Senator SPECTER. And is the statement true and correct?

Ms. BRISCOE. Yes.

Senator SPECTER. And are they your words, which Mr. Treanor wrote down and put in the statement?

Ms. BRISCOE. Yes.

Senator SPECTER. Would you proceed to testify?

Ms. BRISCOE. OK. My name is Delores Briscoe. I was born December 10, 1963, in Muskogee, Okla. My home address is 1121 Northshore Lane, Muskogee, Okla.

When I was 15 I ran away from home. The police caught me and put me in Muskogee jail. It was about May 1979. I kept running away from home, because I disliked my stepfather.

Senator SPECTER. You had not done anything wrong at that time? No offenses at all?

Ms. BRISCOE. I never had offenses. When I got sent up, just running away from home.

Senator SPECTER. Thank you. Proceed, please.

Ms. BRISCOE. I kept running away from home because I disliked my stepfather. I kept getting caught and thrown in jail. During my fourth or fifth court appearance, I was not allowed to say what I wanted to say. But they never asked me. I never had a lawyer. I was only told my rights in court, only by the police.

Once after court I was told to sign a paper that listed things I could not do. I was told if I refused I would be sent to an institution.

Senator SPECTER. What sort of things were in the statement that were untrue?

Ms. BRISCOE. Well, I would come in on curfew, which they did not give me a curfew. Then I would not smoke dope, or have alcoholic beverages, anything like that.

Senator **Specter**. Proceed, please.

Ms. **Briscoe**. OK. My last court hearing occurred while I was in jail. I did not attend. I was then told I was going to Lloyd E. Rader diagnostic and evaluation, D&E. This happened April 1981.

When I arrived at D&E, I was stripped naked and searched by a woman youth worker.

Senator **Specter**. What did the search consist of, Ms. Briscoe?

Ms. **Briscoe**. I do not know. It was just, she took off like—well, I had on, I was still handcuffed, which is on the next line, and she just took me and put them down to the handcuffs, and did my pants and everything. She pulled them off, and just checked me.

Senator **Specter**. She was the only one present at that time?

Ms. **Briscoe**. At that time.

Senator **Specter**. Were you ever strip searched, on any other occasions?

Ms. **Briscoe**. Yes, it is in the statement.

Senator **Specter**. Proceed, then.

Ms. **Briscoe**. OK. I was still handcuffed when they took me from Muskogee jail, for 2 hours before. Then I was taken to a bathroom. The handcuffs removed, and stripped naked, and searched again.

There was another time I was searched. I have been searched three times altogether, when I was in jail, before I went, and when I came there, and when I went to the dorms.

Senator **Specter**. All right, you testified about one strip search, and you just said you were taken to the office, handcuffs removed, stripped naked, and searched again, is that correct?

Ms. **Briscoe**. I was taken to the bathroom, and not an office.

Senator **Specter**. Who was present at that time, when you were strip searched?

Ms. **Briscoe**. The houseparent and a woman that worked behind the desk. I do not know who she was.

Senator **Specter**. Houseparent?

Ms. **Briscoe**. Yes.

Senator **Specter**. Male or female, or both?

Ms. **Briscoe**. Female. And at the police station there was a female and a male.

Senator **Specter**. At the police station you were strip searched in the presence of a female and a male?

Ms. **Briscoe**. Yes. And when I first came in they took—I had an eyebrow pencil, and some matches, and they took the eyebrow pencil and the matches.

Then when I went to D&E they searched me in a rough type of manner, searched me in places I should not have been searched. Even in a strip search.

Senator **Specter**. And as uncomfortable as it is, we would like to have it specifically for the record.

Ms. **Briscoe**. I was searched in my sexual organs, and in my rear. They searched.

Senator **Specter**. Who did that?

Ms. **Briscoe**. The people at D&E, the lady.

Senator **Specter**. A lady did that?

Ms. **Briscoe**. A lady.

Senator **Specter**. What happened next?

Ms. **Briscoe**. Then I was—OK. Then I was taken to look at my cubicle, things like that. Then I was so mad about not being able to attend my trial, I pushed a tray on the floor. The houseparent, which I am not giving any names, called a name. She grabbed me, and I was in other fights, too.

During my 6 weeks in the Rader D&E Center, I was—I saw psychotherapy technician for only 5 minutes. He had me draw some pictures. I never saw a psychologist. I was diagnosed as "under stress."

I asked my mother for a lawyer, but she said that she did not have any money. I had a hearing with my mother, social worker and others. I was given the choice of going home or Taft. I chose Taft.

I stayed at D&E for a few more weeks then, and I was sent to Taft. Some other things happened at D&E, where a girl, 16, from Nebraska, gave herself an abortion. She started screaming. She screamed my name. The staff would not let me in, and the staff cleaned up the blood, and made her walk to the clinic. A few days later she was put in lockup. There was a deaf girl always trying to kill herself. She stabbed herself in the arm with a pencil. She stabbed herself with a knife or a form in the breast. She did this almost every day.

One day she broke out a window with her hands, and was bleeding a lot. She grabbed the glass and tried to cut herself. The houseparent just screamed at her, but of course she is deaf. I tried to stop her, and I was cut on my arm. I have a 3-inch scar on my right arm from this.

My friend is still there. She should not be there. She cannot communicate with anyone.

Another time she cut herself with a light bulb. The houseparent went around screaming. I took the flesh off of her arm, and pressed it back on her arm. I tore a sheet and bandaged her.

I later got in trouble for tearing the sheet. The medical services were not too good. The dentist once drilled the wrong tooth, and left a hole in my tooth, and it still hurts——

Senator **Specter**. Does it still hurt, at the present time?

Ms. **Briscoe**. Not now, it was a dentist in Muskogee.

Senator **Specter**. Thank you. Proceed, please.

Ms. **Briscoe**. At Rader D&E the security guards were always making sexual overtures to me. They whistled at me. The guard pinched me on my butt. I punched him in the chest. He threatened to take me to detention.

Another security guard came down to my window at night, and he pulled down his pants and showed me his butt and sex organ. He started coming by every night, pulling down his pants, sometimes he had an erection. I did not have any curtains. They were not given to me.

Once one came up behind me and bumped my body with his sex organ. All of the guards messed with me. All of them, except three were involved. They promised they would get me out. They said if you will go to bed with me I will promise that you will be out tonight, and that you will have a place to stay, and you will be safe.

One on here is described. He was a white, about 43 years old, and there were lots of others. A man who worked for—this is what—a man who worked with the superintendent rubbed me on my arm and touched my breasts.

Once, on the day that the President was shot, he hugged me. The dentist tried to feel me up in the dentist chair. There were more things, but I do not want to say.

Senator SPECTER. When you first gave the statement to Mr. Treanor, you had identified a man incorrectly?

Ms. BRISCOE. Sir?

Senator SPECTER. Had you identified a man incorrectly when you first gave the statement to Mr. Treanor?

Ms. BRISCOE. When I first gave it to Mr. Treanor, I said it was a man that worked for Mr. Daney, instead of Daney. So it was a mistake that Daney was the man.

Senator SPECTER. You were mistaken when you said it was Mr. Daney?

Ms. BRISCOE. Uh-huh.

Senator SPECTER. And that was in error?

Ms. BRISCOE. Yes, sir.

Senator SPECTER. How did you happen to make that mistake?

Ms. BRISCOE. Because it is the man who works for Daney. I said the superintendent, well, Daney is the superintendent, but he works under Daney. He came to my meetings to see me get sent to Taft, or the home. I thought he was a superintendent.

Senator SPECTER. But, at any rate, it was not Mr. Daney?

Ms. BRISCOE. It was not Mr. Daney.

Senator SPECTER. OK.

When these overtures were made, that you testified about, Ms. Briscoe, did you make any complaints to anybody about these things?

Ms. BRISCOE. Well, like we got tired, like it was at Daney, the whole dorm got tired of security coming in and flashing their flashlights on us, stuff like that. So we complained about it. But I never said nothing to them.

Then at Daney, I do not know there was an advocate defender. So at the time I did not say anything. Throughout this, I never said anything.

Senator SPECTER. Would you proceed, please?

Ms. BRISCOE. OK. Taft was not that bad, compared to Rader. My best friend was always trying to commit suicide. The floors, a man at Taft kissed and felt up the girls. One day in the summer of 1981 I walked to Taft, walked into the Taft greenhouse. There was a little blanket stretched out on the ground. He had his pants down, and hers, while they were having sex. I came in and asked what they were doing.

He jumped up and pulled his pants up, and she told me none of my business. She told me it was none of my business. He offered me a plant, the biggest and prettiest plant. I did not tell anyone. I should have, but I thought nothing would be done about it.

One girl told me I have been down to the farm having sex. She was messing with a lot of them. She pointed out the men who worked for Taft that she slept with. At Taft you could get drugs. You could get them from houseparents, you could get them in school. Anything, weed, liquor or pills.

I do not use drugs or drink alcohol. My stepfather is an alcoholic, and I do not see any sense in it. People should drive—well, people would drive up in cars and sell drugs. They were from 18 to 40 years old. I know them. They are from Muskogee.

One woman was from Taft, I think she was a homosexual, pinched me on my vagina. A man——

Senator **Specter**. Did you make any complaint about that incident?

Ms. **Briscoe**. No, I just told—my auntie, who worked there, and I told my auntie about it.

Senator **Specter**. Who is your auntie?

Ms. **Briscoe**. Ms. Reilly—Rawlings. She is a teacher down at the school.

Senator **Specter**. Proceed, please.

Ms. **Briscoe**. A man beat a 15-year-old who returned AWOL, in front of me, and 50 other people. He hit him seven or eight times in the head. It was outside in front of the administration building. It was about June 1981. He choked the student in July 1981. It was at night in front of dorm 4. There were lots of witnesses.

At Taft there was a white man, he is real prejudicial against black people. He often called kids nigger, and get out of my face. He smelled of liquor a lot. I never used the advocate defender program. I knew what it was, but I thought that it was that—I thought all the things that had happened, that nothing had been done, so I just did not say anything.

I saw lawyers on campus, but a houseparent told me that I could not talk to them. There were lots of people at Rader D&E, but none at Taft. I did not know about the advocate defender program while I was at Rader D&E. I think D&E should be completely eliminated, and let some of the students that do not need to be there be out. Let them out. They need more programs in the community, medical services should be improved, and the violence should be stopped. The standards for staff should be raised much higher.

I was released from Taft August 24, 1981, and enrolled in Langston University.

Senator **Specter**. What was the occasion for your release, Ms. Briscoe?

Ms. **Briscoe**. My release?

Senator **Specter**. How did you happen to get out?

Ms. **Briscoe**. Well, I did not need to be there, I was just in need of supervision and the main thing was they wanted me to make a go out of what I was going to do with my life; pick out a goal, so I went and took my GED and I could not go to school, and I was working at the sheriff's office. I was doing good there. So I always liked them and told them that I wanted to go to college and I want to go do this. I would go and tell them what I wanted to do and they would let me out.

Senator **Specter**. How old are you?

Ms. **Briscoe**. Now? I am 18 years old.

Senator **Specter**. When did you turn 18?

Ms. **Briscoe**. December 10.

Senator **Specter**. Of 1981?

Ms. **Briscoe**. 1981.

Senator SPECTER. What was the incidence of drug use that you observed, if any?

Ms. BRISCOE. Well, it was a lot of drug use; smoke, like I do not smoke, nothing like that, but my friends did. Like they get there, the houseparent could be in the kitchen and they would be outside talking, you could go smoke a joint or take a pill.

Senator SPECTER. Was that done within the observation of the house parents or other officials?

Ms. BRISCOE. Some of the house parents knew, some did not.

Senator SPECTER. How do you know that some of the house parents knew?

Ms. BRISCOE. Because they would smoke it.

Senator SPECTER. In the presence of students?

Ms. BRISCOE. And I am from Muskogee and Taft is right there, and I knew the house parents there. Like when I go home on the weekend, house parents would be out there smoking dope and drinking. Then when they come back in there, we would talk and they would smoke a joint or whatever.

Senator SPECTER. On the situation where you described where you came upon the two people having sexual intercourse, was the man on the staff of the Department of Human Services?

Ms. BRISCOE. I do not know. All I know is, I think he is because he is the florist there, he arranges the gardens at Taft.

Senator SPECTER. He was the florist?

Ms. BRISCOE. Yes. The flowers.

Senator SPECTOR. And how old was the woman approximately?

Ms. BRISCOE. The girl.

Senator SPECTER. The girl.

Ms. BRISCOE. She was about—let us see, about 15 at that time.

Senator SPECTER. And she was one of the juveniles in the institution?

Ms. BRISCOE. She was one of the juveniles.

Senator SPECTER. And why did you not report that?

Ms. BRISCOE. She told me it was none of my business, and then again, you know, if I want to go report it, what would be done, because I sit back at the time, I sit back and I watch them go to the advocate defender. Well, he cannot do anything about it because he has to go through somebody else, too.

Senator SPECTER. You testified that a man came to your window when you did not have drapes?

Ms. BRISCOE. Yes.

Senator SPECTER. And he exposed himself?

Ms. BRISCOE. Yes.

Senator SPECTER. And that happened on a number of occasions?

Ms. BRISCOE. It happened almost every night I was there.

Senator SPECTER. And why did you not report that?

Ms. BRISCOE. I did not even know they had an advocate defender at Rader.

Senator SPECTER. But why did you not report it to some official at the institution? I mean you found it pretty unpleasant that he would come around and do that.

Ms. Briscoe: Yes, I did. I kept asking for curtains.

Senator SPECTER. Who did you ask for curtains?

Ms. BRISCOE. When I first came in there, I said there is a window here and I do not have curtains. I would like a curtain because over across like the fence——

Senator SPECTER. Whom did you ask?

Ms. BRISCOE. I asked the house manager, the house manager.

Senator SPECTER. But you did not say that you wanted the curtains because someone was coming and watching you? You say no?

Ms. BRISCOE. No.

Senator SPECTER. In what manner were you dressed at the time that the man would come and look in the window?

Ms. BRISCOE. I was fully dressed in my night clothes.

Senator SPECTER. Fully dressed in your night clothes?

Ms. BRISCOE. And under the covers, too.

Senator SPECTER. Was there a light on in your room?

Ms. BRISCOE. No light except his flashlight.

Senator SPECTER. What would he do with his flashlight?

Ms. BRISCOE. He would shine it in down on me, like the girl in the cubicle next to me, one night I banged on the wall like that when he was out there, and she seen it, and she banged on the other girls and they came and they seen it, too.

Senator SPECTER. And on these occasions when the men rubbed you or touched you, you never reported that either though?

Ms. BRISCOE. To who? The houseparents? Half the houseparents there was just as bad as they were.

Senator SPECTER. And when they made the promises to you about the good things that would happen to you if you would submit, did you always turn them down?

Ms. BRISCOE. Yes.

Senator SPECTER. Senator Nickles.

Senator NICKLES. Delores, some of the statements that you made are pretty strong. You have been out now how long?

Ms. BRISCOE. Ever since August 24.

Senator SPECTER. August 24. So you have been out 10 months, 8 months, something like that?

Ms. BRISCOE. Something like that.

Senator SPECTER. Did they ever tell you why you were strip-searched twice in Taft, the same day, was it not?

Ms. BRISCOE. See, when I was in court——

Senator NICKLES. No, not at Taft. Excuse me, that is D&E.

Ms. BRISCOE. I understood what you said.

When I was in court they thought I was on drugs, the last time I went to court. They thought I was on drugs, that I got mad, but I got mad because the judge would not let me speak and tell my side of the story.

Senator NICKLES. Did the people in court think you were on drugs?

Ms. BRISCOE. They thought I was on drugs and they searched me and watched me, stuff like that.

Senator NICKLES. While you were at D&E, was it the same person who came by and exposed himself?

Ms. BRISCOE. Yes.

Senator NICKLES. The same person?

Ms. BRISCOE. Yes.

Senator NICKLES. Did he expose himself to other girls, too?

Ms. **Briscoe**. I do not know. All I know is that the girls in the hall that had three cubicles, the girls that was in the cubicles with me seen him.

Senator **Nickles**. Did anyone report it that you know of?

Ms. **Briscoe**. No.

Senator **Nickles**. While you were at Taft were you aware of State employees who were selling drugs to some of the students.

Ms. **Briscoe**. Yes; you can get it from the houseparents.

Senator **Nickles**. What do you mean by: "You could get it"?

Ms. **Briscoe**. I do not know if they sold it to you or not. But you could get it.

Senator **Nickles**. Could you get the drugs from some of the houseparents, State employees?

Ms. **Briscoe**. Yes.

Senator **Nickles**. Do you know the two State employees who were fired?

Ms. **Briscoe**. Alex——

Senator **Nickles**. Do not say their names. Mr. A and Mr. W, does that sound right?

Ms. **Briscoe**. Their last names.

Senator **Nickles**. She will show you the name.

Ms. **Briscoe**. The last one, he never done anything. That was a mistake that I saw. Neither one of them.

Senator **Nickles**. Did either one of them, Mr. A or Mr. W, ever sell drugs, to your knowledge?

Ms. **Briscoe**. Mr. A, well, one of my friends worked for him, right, and I knew that he was a sheriff like of Muskogee—I am not sure—and he never did really come up around kids that much to do something like that.

Senator **Nickles**. Mr. A?

Ms. **Briscoe**. Yes.

Senator **Nickles**. So, to your knowledge, he never did sell any drugs?

Ms. **Briscoe**. Right. To my knowledge, he did not.

Senator **Nickles**. Do you think the other individual, Mr. W, sold any drugs?

Ms. **Briscoe**. No. He kidded around a lot. Like Mr. W, he worked on recreation, right, so naturally he had more contact with the kids than—you know, like the houseparents would, because he worked in the day and the night to be off. And a lot of house parents there were kind of watching him. They would always say this, but he never did, because if he did, I would know because I was a student there and I knew everything that went on there.

Senator **Nickles**. OK

Are you saying neither one of these State employees, to your knowledge, ever sold any drugs?

Ms. **Briscoe**. To my knowledge, they did not.

Senator **Nickles**. Other individuals testified that they had, I believe.

Ms. **Briscoe**. Well, I know one, Mr. W, smokes it. But Mr. A——

Senator **Nickles**. What about Mr. A?

Ms. **Briscoe**. From what I have known him at home, too, he does not. I never seen him. I have seen him drink a little bit.

Senator NICKLES. Someone alleged, if I remember correctly, that Mr. A has solicited a girl for prostitution.

Have you ever been solicited by him or anyone else for——

Ms. BRISCOE. Well, in Taft institution——

Senator NICKLES. I am talking about Taft.

Ms. BRISCOE. None of the houseparents, none of the workers, just people that would come up to the fence where they give weed and stuff, and they would ask me, you know, if you want to get out, you can do this or you can do that. Most of the time, the houseparents, nope, only by the people on the outside.

Senator NICKLES. Are you saying that, to your knowledge, no State employee was soliciting some of the girls for prostitution outside of Taft?

Ms. BRISCOE. To my knowledge, no, they did not. They do it on their own.

Senator NICKLES. Do you think people coming in from the outside come to Taft, and solicit young girls for prostitution?

Ms. BRISCOE. Yes, they would.

Senator NICKLES. Do you think that is still happening today?

Ms. BRISCOE. I know it is. See, the people that do it, I know them. Now, the people that come up and get the girls, the young girls there, I know them from Muskogee and Taft.

Senator NICKLES. Are they doing that for themselves or are they doing it for an organized prostitution ring?

Ms. BRISCOE. I would not know that. All I know is who be around all the time and who does this, who does that.

Senator NICKLES. Are the girls willing participants or are they doing that to pay for drugs?

Ms. BRISCOE. There was some that—well, I know this one girl wanted to.

Senator NICKLES. Did she go AWOL and stay AWOL, or did she go back to Taft?

Ms. BRISCOE. She was in Whitaker. Well, I knew her when I was in the Job Corps, that is when I first met her. I knew her before I got sent out. She came to Whitaker from Job Corps there. She went AWOL from the Job Corps. They caught her and took her back to Whitaker. She went AWOL from Whitaker. They brought her to Taft and she is missing from Taft now. Because I still ask about her and she is not there.

Senator NICKLES. Do you think she is in a prostitution ring?

Ms. BRISCOE. I know she was a strip tease dancer in Tulsa. I know that.

Senator NICKLES. Is she still AWOL?

Ms. BRISCOE. She is still AWOL.

Senator NICKLES. When I was talking about Taft, I mentioned that a large percentage of the youngsters said that they used drugs.

Would you say that that is true at Taft?

Ms. BRISCOE. Yes, that is true.

Senator NICKLES. Are you talking about marihuana or something harder than that?

Ms. BRISCOE. Anything you want.

Senator NICKLES. LSD?

Ms. BRISCOE. Anything. I am serious.

Senator NICKLES. Cocaine?

Ms. **Briscoe**. Anything.

Senator **Nickles**. How can they afford cocaine?

Ms. **Briscoe**. It is easy. You go in like—you go in and you tell them that you need some money, and they go take you shopping. Instead of buying it, they steal it and they keep the money.

Senator **Nickles**. Where do they get the money from?

Ms. **Briscoe**. You work.

Senator **Nickles**. Do you work at Taft?

Ms. **Briscoe**. You work like—I worked at the Muskogee sheriff's office and the business office, and sometimes recreation.

Senator **Nickles**. I see.

Do many people at Taft work on the outside in Muskogee or some place?

Ms. **Briscoe**. You would have to earn it but, yes. And the ones that—well, like you would have to earn an off campus job and you would have to earn to get on the CETA to get paid for doing a job. But everybody had a job they had to do.

Senator **Nickles**. Delores, you mentioned that you did not think that Mr. A or Mr. W sold drugs, but you said you knew some other State employees did, is that correct?

Ms. **Briscoe**. Yes. The ones that do, you know, nobody has brought them up.

Senator **Nickles**. Would you give Mr. Treanor those names so we could turn them in? We think it is important to communicate with the State although we do not want to mention their names for the record. We want to make sure that we do not have State employees selling drugs to our youngsters that are in these institutions. I do not care if they are there because they committed a crime or not. We do not want to have State employees selling them drugs. The critical issue is that if we find out that some people are, we must stop it.

Could you give us those names, so we could communicate that to them? Hopefully, they will investigate it and stop it if it is taking place. The amount of drug activity at Taft as well as at the other institution is important to me. I think we need to do everything that we can do to make sure that it is stopped.

Ms. **Briscoe**. OK.

Senator **Nickles**. Thank you very much.

Senator **Specter**. Senator Boren.

Senator **Boren**. Ms. Briscoe, you mentioned you were at home on weekends. Was that a normal situation? In other words, did you go home quite frequently on weekends while you were at Taft?

Ms. **Briscoe**. I would go home during the daytime if I wanted to.

Senator **Boren**. Was that legally or not legally?

Ms. **Briscoe**. I never went AWOL. But, see, when I worked in Muskogee, I was from Muskogee, I could go home. If I did not want to go to activity in Muskogee, I could go get my mother and I would go home, and then on the weekends I could go home any time on the weekends I wanted to.

Senator **Boren**. How many of the students there would you say were working out in the community? Were there a lot of them on CETA jobs in the community like you were doing?

Ms. **Briscoe**. No. No, because you have to earn it, and it was not that easy to earn it.

Senator BOREN. Was that your option? Were you asked if you wanted to work on a CETA job? How did you end up doing that?

Ms. BRISCOE. Well, they told me that—well, see, D&E, I had a good record of—I stayed on level 5 and never had a level drop, and it is easy to get a level drop but I always stayed on level 5. And then when I came to Taft, I was first moved to the honor dorm. And when I went to the honor dorm, you know, I done all my work, I done like, you know, like extra duty.

Senator BOREN. Right.

Ms. BRISCOE. Like if a girl was sick or something, I would do her work and I was willing to work, and I was good at my job at Taft. Worked in the business office, you know, and then I would work for—like I would go to do errands all around the administration, business for other people.

Senator BOREN. So you had a good record and then they recommended you for the CETA job then?

Ms. BRISCOE. Yes, because it was, you know, working for the sheriff's office.

Senator BOREN. Right.

You said you were given a choice of going home or choosing Taft. After that time you ran away. I think you said after that they diagnosed you at the R&E and said that you could either go home or go on to Taft. You chose Taft.

Were you sorry later because of the things that happened that you had made that choice?

Ms. BRISCOE. No. I just was still a little problem at home so I think I did the right thing.

Senator BOREN. Did they ever consider putting you in a foster home or did you ever consider asking to be put in a foster home?

Ms. BRISCOE. Well, see, my case is different. I have a brother, he is a delinquent, he is at home——

Senator BOREN. He is at your home?

Ms. BRISCOE. He has never been sent up, right?

Senator BOREN. He is still with your mother and stepfather?

Ms. BRISCOE. Um-hum. But he used to be a delinquent. He is all right now. There is nothing wrong with him.

But me, I just like—I go to court, I will not say anything. I hear all these things like they bring up in my face that they said I would do, and the judge, you know, he would listen to them, and then when it came to my turn, I never got to speak for myself. And my mother, she did not know anything about law or anything. She knows a little, but she would sign this paper and sign that paper just to get me to stay home, you know. She just wanted to bring me home. That is all she ever asked them to do. But like stealing and stuff like that, I never was involved in that.

Senator BOREN. Now that you are out of Taft and you are at the university at Langston for which I certainly congratulate you and I am glad to hear that you are going on with your education. From your expressions today I certainly think that you have all the potential in the world to go ahead and get your degree and make a real contribution. One of the things that we are most interested in in this committee is to try to determine what we should do differently in situations like yours.

Are there things that we could do differently that would, say, have you further along in your educational background in what you want to do in your life than even you are. If you were going back over your own situation and if you could go back over and change what was done with you, from the time you were age 15, what would you want us to do? What would you recommend if you were writing up the program for what the State ought to do in a case like yours?

Ms. **Briscoe**. Well, in my case?

Senator **Boren**. Yes. What would you do differently? What do you think we should be doing?

Ms. **Briscoe**. Well, I do not criticize the State, the institutions, for anything. The courts, I criticize them. They should go more on—you know, the child than just hearsay what is going on about the parents. They should be more observant to what is going on at home than this and that. Like instead of saying the child is out here doing this, you have got to understand why and the example at home. Maybe his mother did not give him the money or whatever. Maybe he cannot get a job.

Senator **Boren**. At the time of the court proceeding, I gather that because you were not charged with a crime, you were not represented by a lawyer. Is that right? Were you represented at those hearings?

Ms. **Briscoe**. Well, they said, you know, I could have had a lawyer, and I would not have got sent out in the first place. But, see, like my stepfather, he made me mad one day. He was coming over toward me, and I cut him, you know, across the hand. I think that probably was the only thing that——

Senator **Boren**. That was the first case?

Ms. **Briscoe**. They said I made a crime. That is when they thought I was crazy.

Senator **Boren**. Did you ever spend any time—was there any kind of a shelter, any other kind of a place?

Ms. **Briscoe**. Yes.

Senator **Boren**. Did you go direct from home to the Rader Diagnostic Center? I guess you spent a brief time at Muskogee jail?

Ms. **Briscoe**. Wait a minute. I am going to explain that to you again.

I have been in the court ever since I was 15 years old. I got sent up when I was 17 years old. OK. When I was 16, I was in the shelter, Muskogee Youth Center.

Senator **Boren**. Muskogee Youth Center?

Ms. **Briscoe**. I forget, McCoy's Youth Shelter.

Senator **Boren**. McCoy's Youth Shelter.

What was that like?

Ms. **Briscoe**. That was all right.

Senator **Boren**. Did you go on to Muskogee public schools at that time?

Ms. **Briscoe**. I went to school. I had A's in school. I only stayed at the shelter for a week, but I had A's in there and the teacher told them that I was, you know, doing good, everything like this. So they popped up, they wanted to see if I could act right and go to school. I told them I would go to that school because it was nice there and I could study and do what I wanted to. You know. And I would not be in a big class where I could not hear and there would be a lot of disturbances.

Senator BOREN. Right.

Ms. BRISCOE. So they was supposed to get from them how I was to act and things. I done my best even though like they done certain things, they lied on me before in court, I still tried to act right. OK. I stayed in there a week, and then they told me that I was supposed to go to Taft. And I never really paid any attention to the Taft institution. I never been to any institution. I thought it was the worst thing in the world, you know. So I ran away out of there for 6 months. They caught me and I was put in jail and I was put in there for, let us see, overnight, and then earlier that day they told me they was going to have my hearing that day. And so I said OK. And I think it was 1:30, something like that, because my hearing was always like 1:30.

So they came to the cell where I was at and they had told me it was later that afternoon that I was going to D&E. And I looked at him and I said, well, you said—well, they said, for one thing, that I was telling my mother if I turned myself in, I would go to Taft. So they popped up and told me I would go to D&E. And my mother, she did not know until the next day that I had been sent out. They did not let me bring any clothes. My clothes were messed up. My mother did not attend the hearing, the court hearing, and she did not quite like it. So then I thought I better have a lawyer or something.

Senator BOREN. How did you decide to go to Langston? Did you get counseling? Did you decide on your own to apply?

Ms. BRISCOE. I done everything. I done everything mostly on my own. I do not, you know, like I do not think I was sent—well, if you would have seen me there, you would understand. If I wanted something, I get it, you know, something like that. But I was supposed to go to Northeastern State University. That was my choice. My probation officer, he is kind of stuck on Langston because that is his alma mater.

Senator BOREN. He went there to school?

Ms. BRISCOE. He sent me to Langston instead of Northeastern. So there was his choice to go to Langston. I wanted to go to Northeastern.

Senator BOREN. Well, we appreciate your testimony and I wish you a lot of good luck in your studies there and hope some day we will hear about your granting of the degree. We wish you good luck.

Ms. BRISCOE. OK. Thank you.

Senator SPECTER. Mr. Treanor, just a few more questions before we conclude.

What contacts, if any, did the juveniles have with the adults?

Mr. TREANOR. Senator, five of the young people that I took statements from had been held in jail with adult criminals. The jails, of course, are not under the direction of the department of human services. Under the mandate of the Juvenile Justice Act, the children may not be held in adult facilities.

Senator SPECTER. What did you find with respect to selection of training and assignment of personnel?

Mr. Treanor. We have reports indicating that several employees have criminal records, Senator.

Senator Specter. How many?

Mr. Treanor. I have, oh, 9 or 10 cases here.

Senator Specter. Nine or ten.

And what was the most serious of the criminal records found?

Mr. Treanor. After he was hired, they went back and did a check on him. I will read some of the things off the record. Vehicular manslaughter, possession of drugs, driving under the influence, traffic offenses, miscellaneous, possession of marihuana, forgery, rape, forced kidnapping, possession of drugs——

Senator Specter. And you are saying that that individual is an employee of the Oklahoma Department of Human Services?

Mr. Treanor. Yes, sir.

Senator Specter. At the present time?

Mr. Treanor. I do not believe he is still an employee of the department, Senator.

Senator Specter. When was he terminated, if you know?

Mr. Treanor. I do not know.

Senator Specter. And there are eight others?

What is the most serious offense—which one of the others was convicted?

Mr. Treanor. Well, here is Mr. C, who was involved in that broken collarbone incident mentioned earlier this morning. He has two charges prior.

Senator Specter. Are they convictions or charges?

Mr. Treanor. These are charges, armed robbery.

Senator Specter. Acquittal?

Mr. Treanor. I could not tell from the record.

Senator Specter. Do you know.

Mr. Treanor. In one case he failed to appear.

Senator Specter. Do you know what practices the department of human services followed with respect to checking on prior records?

Mr. Treanor. My understanding is the practice was not to check at all. These instances come to light only as a result of these people being involved in other incidents, other behavior after they became employees of the department. In the last few months, the department has initiated background checks on people prior to their being hired.

Senator Specter. Did you ask anyone at the department of human services what they had done with respect to checking on people for possible criminal records?

Mr. Treanor. That was discussed in our interviews, yes, sir.

Senator Specter. What was the response?

Mr. Treanor. It did not seem to me that they had a clearcut policy for practice as far as investigating in the past.

Senator Specter. Do you know if there have been any changes in the department's policies since the initiation of the investigation by this subcommittee?

Mr. Treanor. Since the February 11 hearing, Senator, it is my understanding that it is now required in the department to have these background investigations.

Senator Specter. What reports, if any, were given to appropriate law enforcement officials on allegations of criminal conduct?

Mr. TREANOR. Well, we checked into that quite carefully and we found that there were a couple of instances where there had been referrals to the district attorney. All these abuses that we went over this morning.

Senator SPECTER. You say a couple. Do you mean two?

Mr. TREANOR. Two. Prior.

Senator SPECTER. When were those referrals made?

Mr. TREANOR. Prior to 1982.

Senator SPECTER. When were those referrals made?

Mr. TREANOR. 1978 and 1979, I believe.

Senator SPECTER. And has there been any change in the practice after 1982?

Mr. TREANOR. Oh, yes, sir, there has been—we have records now of 22 referrals just so far in the first 4 months of this year.

Senator SPECTER. And when did those commence? When did those referrals begin?

Mr. TREANOR. They began basically at the time after our hearing here, February 11.

Senator SPECTER. Senator Nickles.

Senator NICKLES. I have no further questions today. Will we come back to Mr. Treanor tomorrow, or is your agenda primarily for the DHS?

Senator SPECTER. Well, we will have tomorrow the officials from the Department of Human Services from Oklahoma, but Mr. Treanor is available and can return to respond to further questions.

Senator NICKLES. I am very interested in the fact that there have been no referrals.

Did you say, there have been two referrals prior to this year?

Mr. TREANOR. Yes, sir.

Senator NICKLES. How many referrals have been made this year?

Mr. TREANOR. Twenty-two approximately.

Ms. WESTMORELAND. Senator Nickles, I should tell you what we asked for for records of referrals.

The documents we were furnished for 22 this year——

Senator NICKLES. What do you mean by referrals?

Ms. WESTMORELAND. Referrals to law enforcement authorities.

Senator NICKLES. In other words, the charge would be turned over to the county DA?

Ms. WESTMORELAND. Right. And then they say please investigate what we see as a problem.

We received a background memo stating that prior to this spring, verbal referrals may have been made this where there would be no record.

Senator NICKLES. Thank you.

Senator SPECTER. Senator Boren.

Senator BOREN. No further comments. Thank you.

Senator SPECTER. Well, that concludes our hearing for today.

I want to, on behalf of the subcommittee, thank David, Stacy, Khristinna, and Ms. Delores Briscoe.

We will commence hearings tomorrow morning at 9:30 where we will have an opportunity for the officials from the Department of Human Services to testify. We had given the officials from the Department of Human Services the option of being on today or tomorrow to either come first today and respond to the charges of the allegations of February 11, and they have chosen to be here tomorrow. So we shall convene promptly at 9:30 tomorrow morning for that purpose.

Thank you very much.

[Whereupon, at 1:10 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Thursday, May 27, 1982.]

ABUSE OF JUVENILES IN PUBLIC CARE AND DETENTION

THURSDAY, MAY 27, 1982

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:34 a.m., in room 2228, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Nickles, Boren, Thurmond, and Metzenbaum.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator **SPECTER**. Good morning, ladies and gentlemen.

We shall resume the hearings into allegations of misconduct in the institutions for juveniles maintained by the State of Oklahoma, Department of Human Services.

These proceedings are being held pursuant to notice which has been given to the officials of the department. They have been notified that they will have an opportunity to present opening statements, if they choose to do so. We will also give an opportunity to Mr. Herschell Daney to testify concerning an allegation on which we heard testimony yesterday. In that testimony Ms. Briscoe stated that she had incorrectly indentified Mr. Daney in an earlier proceeding, and he will have a full opportunity to testify on that matter.

I am joined here this morning again by two distinguished Senators from the State of Oklahoma, Senator Don Nickles and Senator Boren.

Senator Nickles, do you have an opening statement?

Senator **NICKLES**. I have no statement but wish to thank you for holding these hearings, and for giving me and Senator Boren an opportunity to participate.

We welcome our visitors today from the department. It is my belief that they should have an opportunity to present their views of what has happened. There have been some very serious allegations made that bother me and many others. So far, they have been one-sided and it is important that you have an opportunity to respond and tell us what has happened.

If there have been instances of abuse, I want to know what has been done. Have those people been prosecuted or terminated? What actions have been taken, if those incidents occured in the past, to make sure they don't happen again. I think our ultimate goal is the welfare of the children of Oklahoma and to make sure they have as good an environment as possible in which to live and grow up.

I want this hearing to be fair to all involved. I look forward to hearing from our distinguished witnesses today.

Senator SPECTER. Senator Boren, do you care to make an opening statement?

OPENING STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BOREN. Again, I want to join Senator Nickles in thanking you for your courtesy in inviting us to be here and participating fully in these hearings. They are, of course, of special interest to us because, thus far, they have focused on the State of Oklahoma.

I was certainly moved by the testimony we heard yesterday. It is a great tragedy when young people who do not have the family support and encouragement which they need at home develop serious problems as a result. It is easy to understand how young people who do not have homes to go to and who are shuffled from one relative to another, from one foster home to another, finally ending up in public institutions, develop very serious problems. Our challenge is to find more effective ways of helping young people.

The problem is easier to define, unfortunately, than is the solution. What we do when there is no stable home environment or family environment to which to send a child is a very difficult question indeed. I have always felt that the development of more small, community-based homes may be part of the answer, and I advocated that, of course, to the legislature while I was Governor.

I am happy to say that some progress has been made in that direction, Mr. Chairman. Personnel problems which we have heard about at length in the first two hearings are perhaps the most difficult of all at any institution.

Of course, at this point, we have heard allegations of misconduct in regard to some employees. Today we will hear the State's evaluation of these allegations and their interpretation of them. If even one of these allegations of abuse by employees is found to be true, that is one too many. Any employee who does wrong should be immediately disciplined or terminated, as is appropriate. I hope we will concentrate on what we can learn from the Oklahoma case study. I presume that this committee will also be probing in depth into the juvenile services of many other States as well.

I hope that these case studies will help us develop new ways of avoiding the tremendous loss of human potential which occurs when we do not salvage the talents of a young person who has gone astray.

Mr. Chairman, to have a balanced picture, we should look both to the strengths and weaknesses of the Oklahoma system. I hope the Oklahoma officials who are here today will openly face up to any mistakes that may have been made and will work quickly to correct them. That has been my experience with our State officials in the past, and that they will not be obligated or feel obligated to be defensive about any mistake which may have been made. I hope the State officials also today will share with us, with the committee, some of the successful and positive parts of the Oklahoma program, items like the restitution program, which is one of the finest in the United States, items like the development of group homes, items like the building of Children's Memorial Hospital in which many Oklahomans justifiably take pride.

With us today is Mr. L. E. Rader, who has been Director of the Department of Human Services in Oklahoma for 31 years. He is the dean of all the State directors in the United States. I will not, for the sake of time, recite his biography. But suffice it to say, in those 31 years, he has been recognized and honored by many of the professional groups dealing with human services at the national level. For us to have a balanced point of view, I think it is important for us to know that even his severest critics will concede that there has been very significant progress in the provision of juvenile services in the State of Oklahoma during his tenure.

I saw pictures when I first came to the legislature, where I served for 2 years a member of the Appropriations Committee, of some of our State institutions for juveniles, both the mentally retarded, juvenile offenders, the school for the deaf, the facilities for the blind and others in our State. In the time predating Lloyd Rader's tenure, we had facilities that should not have housed any healthy person, let alone a person needing special care. They were facilities with windows broken out, facilities without adequate heat, facilities that were in a shameful state of repair. I have gone to all of those facilities myself over the past several years and I can say there has been remarkable improvement.

I can recall discussing with Mr. Rader his desire and mine that we end up with central heating and air-conditioning, with satisfactory climatic conditions in all of our buildings, which has been done. That may seem like a minor matter and one we can assume but I can assure you that in 1951 those were not the conditions in Oklahoma institutions for juveniles and for others.

One of the proudest days we ever had in the State of Oklahoma was the opening of Children's Memorial Hospital and, Mr. Chairman, I hope that you and other members of the committee will some day have an opportunity to visit that institution. I think it is one of the four or five best institutions of its kind in the United States. It has 450 beds, over $40 million facility that was opened, debt free, in the late 1970's.

I think it should be said in all fairness that had it not been for Mr. Rader, that facility would not have existed and never been opened.

I had been to the old hospital for children. Some of the wards did not have air-conditioning. They had fans where children suffered greatly from the outbreak of polio in our State.

The new hospital has one of the greatest neonatal care units in the country. I know from close friends and dear friends to me that there are many, many children in the State that would not be alive today if it were not for the really fantastic medical care which that facility provides.

So therefore, Mr. Chairman, I think that we should look both at the weaknesses and at the strengths. We should get a balanced point of view. I am glad that our State officials have come here today. We should have a full airing of all the facts, let the chips fall where they may. If any mistakes have been made, let us push, as members of this committee and hopefully as State officials back in the State of Oklahoma to correct those mistakes as quickly as possible.

Let us also remember that our first goal is to help improve the services for juveniles so that we will not lose the talents and potential of young people like those we heard from yesterday. We will find the best possible way to salvage them, to see more of them go on to college, as Ms. Briscoe is going on to college, and to really utilize their talents in society.

That is a great challenge and I am glad, Mr. Chairman, that that is a challenge you have taken on. I applaud your sincere interest in seeing us develop programs all across this country that will help in this effort. I cannot think of any more worthwhile goal than that.

Senator **Specter**. Thank you very much, Senator Boren.

Our first witness this morning will be Mr. Rader. We have some eight witnesses listed. The practice of the Committee on the Judiciary and this subcommittee is to make the statements in full part of the record. It is our request that you summarize the prepared testimony as briefly as possible. It has been a practice in the past to request summaries of 5 minutes. We will not hold any express or rigid timeframe, but we do have a fair amount of ground to cover on the witnesses which the department of human services wants presented. So we would appreciate it if the summaries would be as brief as possible, leaving time for questions by the panel.

Mr. Rader, if you will rise at this time and raise your right hand.

[Lloyd Rader was duly sworn.]

Senator **Specter**. Would you state your full name and position for the record, please?

TESTIMONY OF LLOYD E. RADER, DIRECTOR, OKLAHOMA DEPARTMENT OF HUMAN SERVICES, ACCOMPANIED BY GENE STIPE AND CHARLES MILLER

Mr. **Rader**. Mr. Chairman, members of the committee, my name is Lloyd E. Rader. I am director of the Oklahoma Department of Human Services. I have been the department's director since 1951. Under the Oklahoma Constitution, the department's governing body is a nine-member commission appointed by the Governor of the State. I am responsible to the commission, and have been since I became director.

I would like to introduce the other officials of the department who are here today, some of whom have prepared statements.

Dr. Theodore Baumberger is the supervisor of the Division of Institutions and Community Services for Children. His position gives him overall operating responsibility for the juvenile institutions.

Senator, George Miller is the secretary to the director, with duties that cover the full scope of the department's activities.

Jack Campbell is program coordinator for the institutions. He has previously served as superintendent at several juvenile facilities.

David Shafer is standards manager for the Division of Institutional Services. Prior to that, he was the supervisor of Institutional Services for 4 years, and before that was superintendent at two of our institutions.

R. Chase Gordon is presently deputy general counsel. He was supervisor of the Bureau of Institutions and Community Services from 1977 to 1980.

Charles Garrett is the inspector general of the department.

Herschell Daney is the superintendent at the Rader Center Children's Treatment Unit. Previously, he was the assistant superintendent at the Helena School.

Dr. Richard Rettig is consultant on institutional training.

I would also like to introduce John Leitka, our assistant advocate general. Mr. Lietka has no prepared statement, but is here today at my personal request and is available to respond to questions.

These are the employees who run the department's programs on a day-to-day basis for juveniles.

Accompanying me and the others I have identified are Charles A. Miller and K. Gregory Tucker, attorneys with the law firm of Covington & Burling, the department's Washington counsel; Tom Tucker, an attorney on the department's legal staff, and Gene Stipe, my personal attorney.

Also let me introduce Reginald D. Barnes, the chairman of the Oklahoma Public Welfare Commission, who wished to be present for the hearing today.

Our purpose today is to present the department's response to a number of allegations and concerns that have been brought to the subcommittee's attention over the past few months concerning the juvenile institutions operated by the department. We also hope to answer to the subcommittee's satisfaction any and all questions it may have concerning our juvenile programs.

When we have completed our testimony, I am confident you will agree that the department's stewardship has been satisfactory and presents no cause for continued inquiry or concern by this subcommittee.

I would refer the subcommittee to that part of my statement that deals with the details and I will not spend the time reading it. Response to all the allegations that have been previously raised by this subcommittee are included.

Various members of my staff have submitted statements, together with additional comments they can give to your subcommittee.

In addition, yesterday, we were given no advance notice of these new allegations. Nevertheless, in the interest of fairness to the employees in the department who are entitled not to have unfounded charges lying open and unanswered on the public record, I have asked my staff to respond to the best of their ability to these new charges.

I have also asked them, rather than reading their written statements today, that they use their time to answer the allegations that were heard yesterday.

I would like to begin by calling on the Division Director that is responsible for the juvenile institution program, Dr. Theodore Baumberger.

[The prepared statements of Mr. Rader and Jack Campbell program coordinator follow:]

PREPARED STATEMENT OF LLOYD E. RADER

My name is Lloyd E. Rader. I am Director of the Oklahoma Department of Human Services. I have been the Department's Director since 1951. Under the Oklahoma Constitution, the Department's governing body is a nine-member Commission appointed by the Governor of the State. I am responsible to the Commission, and have been since I became Director.

I would like to introduce the other officials of the Department who are here today, some of whom have their prepared statements.

Dr. Theodore Baumberger is the Supervisor of the Division of Institutions and Community Services for Children. His position gives him overall operating responsibility for the juvenile institutions.

Senator George Miller is the Secretary to the Director, with duties that cover the full scope of the Department's activities.

Jack Campbell is Program Coordinator for the institutions. He has previously served as Superintendent at several juvenile facilities.

David Shafer is Standards Manager for the Division of Institutional Services. Prior to that, he was the Supervisor of Institutional Services for four years, and before that was Superintendent at two of our institutions.

R. Chase Gordon is presently Deputy General Counsel. He was Supervisor of the Bureau of Institutions and Community Services from 1977 to 1980.

Charles Garrett is the Inspector General of the Department.

Herschell Daney is the Superintendent at the Rader Children's Center Treatment Unit. Previously, he was the Assistant Superintendent at the Helena School.

Dr. Richard Rettig is Consultant on Institutional Training.

I would also like to introduce John Leitka, our Assistant Advocate General. Mr. Leitka has no prepared statement, but is here today at my personal request and is available to respond to questions.

Also let me introduce Reginald D. Barnes, the Chairman of the Oklahoma Public Welfare Commission, who wished to be present for the hearing today.

Accompanying me and the others I have identified are Charles A. Miller and K. Gregory Tucker, attorneys with the law firm of Covington & Burling, the Department's Washington counsel, Tom Tucker, an attorney on the Department's legal staff, and Gene Stipe, my personal attorney.

Our purpose today is to present the Department's response to a number of allegations and concerns that have been brought to the Subcommittee's attention over the past few months concerning the juvenile institutions operated by the Department. We also hope to answer to the Subcommittee's satisfaction any and all questions it may have concerning our juvenile programs. When we have completed our testimony, I am confident you will agree that the Department's stewardship has been satisfactory, and presents no cause for continued inquiry or concern by this Subcommittee.

In this aspect of its operations, the Department deals generally with three categories of juveniles: (1) delinquents (those found guilty of criminal activity), (2) INS--children in need of supervision (including those adjudged "unmanageable" or "out of control"), and (3) deprived or neglected children. The great majority of youngsters in these categories are not assigned to the juvenile institutions. Most are cared for through other means, such as private facilities, foster homes, group homes, or in the homes of their families or relatives. The institutions are for those youngsters that cannot be cared for or handled by these other means. Usually, juveniles assigned to an institution have first been placed in one or more of these other settings which proved to be unsatisfactory, frequently because the youngster ran away or otherwise abused the freedom that these other settings offered.

The following statistics will place the institutional programs in proper perspective. The Department provides services to some 40,000 Oklahoma youngsters annually through its various youth programs. As of March 1, 1982, there were 4,386 deprived youth in our custody, of which only 160 were in state facilities. Even in the delinquent and INS categories, only half of those in the Department's custody are assigned to the institutions. This represents about 650 juveniles. These figures are representative of the statistical breakdown over the past several years.

The Department has been operating six general treatment and care facilities for juveniles. They are:

1. Helena State School for Boys. This facility was closed this Spring pursuant to long-standing plans. When it was open, the youth population was approximately 98 percent delinquent with the balance consisting of INS youth. No deprived youth were at Helena. Helena residents were all high school age. Except for the maximum security program at the Rader Center, Helena received the toughest problem youth in the system. Its program involved both regular academics and vocational rehabilitation.

2. Boley State School for Boys. The Boley State School has a makeup similar to Helena in that 95 percent of its population is delinquent youth. It is used for boys under 15 years of age or whose physical and developmental limitations dictate placement with younger children. The program provides both regular academics and vocational rehabilitation.

3. Oklahoma Children's Center. The coeducational Oklahoma Children's Center (OCC) at Taft is for INS and deprived youth who have not been adjudicated delinquent. The emphasis at OCC is heavily on vocational training although a full academic program is offered. Youth must be at least 15 for placement in this program.

4. Central Oklahoma Juvenile Treatment Center (COJTC). This facility at Tecumseh provides intensive psychological treatment and therapy programs for INS and delinquent youth. No one with a history of violence is involved in this program, and before admission a youth must demonstrate both the mental capacity and the attitude that will enable him or her to respond to the program. The coeducational population includes youth ages 15 to 17.

5. Whitaker State Children's Home. Whitaker is a coeducational facility serving deprived and INS youth of all ages. There are no delinquents. The program includes regular academics, special education, and some vocational training.

6. L.E. Rader Diagnostic, Evaluation, and Treatment Center. Two distinct programs are administered at the Rader Center. One is the Department's coeducational, maximum security facility for youth who have been adjudicated delinquent in connection with a major violent crime, or who have been referred from Boley (or formerly Helena) because of violent or aggressive behavior which is a threat to other persons. The Rader Center

also has the Department's diagnostic and evaluation service, which processes incoming youth prior to assignment to a care and treatment facility or to a program in their home community.

As I have indicated, less than 5 percent of the deprived youth in the Department's custody are in the institutions. Most of the institutional population is made up of delinquents or of INS juveniles. The INS youth frequently have criminal arrest records and would not be assigned to the institutions unless they had a record of anti-social conduct and had demonstrated an inability to function properly in a less secure environment. The Department has always been the juvenile placement of last resort for the Oklahoma courts, and our institutions are the facilities of last resort for the most severe problem children.

The Department also operates other juvenile facilities, including three state schools for the mentally retarded, two special schools (one for the blind, one for the deaf), and receiving centers at Oklahoma City and Tulsa. In addition, the Department has many other responsibilities, including administration of the various welfare assistance programs, service programs, such as child welfare services, and operation of three teaching hospitals, one of which is the Children's Hospital in Oklahoma City.

Of late, the Department's operation of its juvenile institutions has come under considerable scrutiny. One news organization with newspaper and television outlets in the State has mounted an extensive campaign to discredit the Department and its leadership. In pursuit of that aim, it has published a series of misleading, inaccurate and unfair stories about the Department and its treatment of juveniles in its custody.

Many of those stories were told to this Subcommittee on February 11. Members of the Subcommittee, including those Senators invited to sit with the Subcommittee, expressed concern about the stories they heard. Yet I am certain that the reaction would have been different had the entire truth been told about each of the incidents in question. We have tried since February 11 to give the Subcommittee the full story on these incidents, and are here today to assist in that effort. We submitted to the Subcommittee on March 5 a report on each of the incidents discussed at the February 11 hearing. We also supplied a large number of files in response to the Subcommittee's request. Senator Miller and others are prepared today to address each of those incidents.

Beyond the individual incidents, I want to assure the Subcommittee that we operate good juvenile facilities in Oklahoma. We have highly qualified professional staffs that offer a multi-disciplinary approach to the treatment and rehabilitation of juveniles. The goal is to help them learn how to function in society so that they may lead productive and law-abiding lives.

We maintain humane conditions for the juveniles and endeavor to let them exercise freedom wherever possible. But we must balance the desire for freedom with the need for discipline and protection of the public. We would have fewer incidents of anti-social conduct by the juveniles if we gave them less freedom.

We do not tolerate abuse or mistreatment of juveniles. We endeavor to enforce discipline in the least obtrusive way that is humanly possible. We do not tolerate exploitation of the juveniles or intimidation of them. Where allegations are made that these policies have been violated, we investigate them, and if they are proved we take appropriate disciplinary measures against those who were responsible.

Our institutions are run openly. They are visited by many people and are subject to continuing oversight by the State Legislature. We pay attention to criticism, and where it is valid we try to improve. Several years ago, we added an Advocate Defender program to insure that juveniles had an opportunity to report their grievances through an independent channel whose sole responsibility was to pursue these grievances and recommend appropriate action. I believe this has been a good program that has further aided our efforts to improve the institutions.

I want to say a word about the debate over whether we should strive for more deinstitutionalization in our juvenile programs. In the last five years, the number of placements in the juvenile institutions has dropped by almost two-thirds. This reflects our continuing efforts in Oklahoma to develop alternate placement options, such as group homes and foster homes. There are some, including thoughtful officials in our Department, who have wanted this process to proceed even more rapidly. Others have believed that the limited available public funds would be better spent improving existing institutions, which are better able to handle the "toughest" cases. These are important and complex policy issues. I am sure they will continue to be discussed and debated long after I have left the Department. The fact that there have been differences in thinking within our Department on this issue reflects no insensitivity to the needs of juveniles or reluctance to change. We are receptive to proposals for change; but we analyze them realistically and we acknowledge the limits of our resources and the need to derive the maximum in services for the taxpayers' dollars.

Finally, I feel I should say a word about the process of the Subcommittee's investigation. We have been concerned that over the past several months the Subcommittee staff has approached this inquiry as if it were seeking to build a case against the Department instead of objectively and fairly assessing all of the relevant and reliable information to determine whether there does exist a serious problem worthy of this Subcommittee's continuing attention. We have expressed our concerns about the Subcommittee staff's approach, and I recognize that that has led to a certain amount of hostility between the staff and our Department and its representatives. I hope that we can put that behind us. I believe that our presentation today, coupled with the information that has previously been supplied, answers all of the legitimate concerns that have been raised and assures the Subcommittee that Oklahoma's juvenile institutions are being operated properly. We have welcomed the opportunity to come before this Subcommittee to state our case and appreciate the time that the members have taken to listen to us.

I would like to invite to the Subcommittee's attention my letter dated March 4, 1982, which accompanied the written submission of the Department in response to the staff inquiry about the incidents discussed at the February 11 hearing. That letter supplements the views that I have expressed this morning.

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STATE OF OKLAHOMA
OKLAHOMA COMMISSION FOR HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES
(Department of Public Welfare)

Sequoyah Memorial Office Building
OKLAHOMA CITY, OKLAHOMA - 73125

L. E. RADER
Director of Human Services

Mailing Address: P. O. Box 25352

March 4, 1982

Bruce A. Cohen, Esquire
Chief Counsel
Subcommittee on Juvenile Justice
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Cohen:

On Thursday, February 11, 1982, the Subcommittee on Juvenile Justice of the Senate Judiciary Committee held a hearing and heard testimony from members of its staff concerning the operation of juvenile institutions in the State of Oklahoma. The Oklahoma Department of Human Services was informed of this hearing only one day before it was held. By letter, dated February 12, 1982, you asked that the Department supply a large volume of information relating to a number of the matters that were aired at the Subcommittee hearing. This letter and the attached material respond to your request.

We are supplying to the Subcommittee full information on all of the matters raised in your request of February 12, as well as all other specific incidents referred to in the staff testimony at the February 11 hearing, even though not referred to in your letter. We appreciate the opportunity to respond to the Subcommittee's inquiries and to set the record straight on the issues that have been raised before the Subcommittee.

The Subcommittee has been given an unfair and inaccurate account of the specific incidents brought to its attention at the February 11 hearing and of the overall operation of the Oklahoma juvenile institutions by the Department of Human Services. This kind of unfairness and inaccuracy frequently results when reliance is placed on incomplete records and leaked information, when responsible officials are not given the opportunity to explain material, and when stories told by people with grudges against the Department or who have records of instability or undependability are given uncritical acceptance.

Oklahoma's juvenile institutions are good facilities. They are not run like prisons or modern day dungeons. They are as humane and open as possible given the nature of the residents, their backgrounds and their potential for injury to themselves and others.

The people who work in these facilities are, in the main, well trained and dedicated. We keep abreast of current thinking in the field of juvenile care. We do not necessarily accept every new thought -- every panacea for curing the effects of ignorance, poverty and unhealthy environment. But our goal is to provide the best care possible for the juveniles in our custody and to improve their chances for a productive and law-abiding life in the community. I cannot imagine why anyone would assume that those responsible for the Department's juvenile facilities would have any other motives.

Our programs are run openly; we have not sought to suppress criticism or inquiry Over the years our institutions have been the subject of considerable Legislative oversight. In 1978, we added an innovative Advocate Defender program to assist residents in expressing their complaints. We have conscientiously investigated and resolved complaints received by the Advocate Defenders. We did not add this program under any compulson but because we thought it was a good forward step.

I feel compelled to add a personal observation. My entire commitment is to the care of children and other needy citizens in Oklahoma. I have devoted the last thirty years of my life to them. At my age, I seek no personal gain and harbor no political ambition. My only ambition is to have the programs about which I care so deeply remain strong and continue to care properly for those less fortunate people who need the Department's assistance.

I do not mean to suggest that we are perfect or that no mistakes have ever been made in the past. I cannot imagine a program of our scope and geographic reach that would not turn up mistakes or bad employees. But we have systems to deal with these situations. They work, they were used in the cases cited before the Subcommittee, and where serious problems were perceived, they were dealt with.

The notion that cruelty, exploitation, or intimidation is acceptable or condoned in our juvenile institutions is so far from the truth, so foreign to everything I stand for and the Department works for, that I cannot adequately express my indignation, and that of the many loyal and dedicated employees of the Department, at the accusations made against us. I believe that I speak for all of them in expressing my outrage at the way in which the Department and its people have been maligned for the sake of a few sensational headlines.

The attached memorandum supplies specific information that should satisfy the Subcommittee that there is no "scandal" in Oklahoma, and that its programs do not require further Congressional investigation. We deal with all the matters raised. Much of the information supplied comes from confidential case or personnel files. We have sought advice from our Attorney General and from various committing judges on the extent of our ability to disclose this confidential information. While we have yet received no response from the Attorney General, we have heard from a number of the committing judges. We also have obtained advice of counsel.

Based on the responses received, we feel it is inappropriate to make public disclosure of confidential material in case or personnel files. Accordingly, we emphasize that the memorandum being supplied to the Subcommittee is not for public disclosure and must be kept for the private use of the Subcommittee. We intend to supply to the news media an abbreviated version of our submission to this Subcommittee which deletes all confidential material.

The Department of Human Services is prepared to take all appropriate steps to clear the record on the issues that have been raised, and I believe that the information being supplied to this Subcommittee should answer all of its questions. If any aspect of this submission is unclear or appears incomplete, please let us know so that we can attempt to satisfy these concerns. Our intention is to assure the people of the State of Oklahoma that its juvenile programs are being operated properly and deserve their continued support.

Respectfully submitted,

L. E. Rader
Director of Human Services

PREPARED STATEMENT OF JACK CAMPBELL PROGRAM COORDINATOR

Chairman Arlen Specter, members of the Subcommittee, my name is Jack Campbell. I have been continuously employed by the Oklahoma Department of Human Services since 1964. Presently I am the Supervisor of Institutional Services. As such, I am involved daily with the operations of all state operated juvenile institutions. This opportunity to talk with you concerning the realities in our institutions is one which I take quite seriously. Our institutions have operated for the past four years amid active litigation and investigations by enforcement agencies, legislative bodies and the news media. My remarks will focus on the impact of these investigations as experienced by the institutional staff and the resident juveniles.

Being in the public eye as all of you are, I am sure that you can appreciate the agitation which our institutional employees have experienced from being subjected to constant criticism by people who have very little understanding of their work. The most troubled and difficult to control juveniles in Oklahoma are in these institutions. I am sure you can appreciate that to render responsible care to these juveniles is exacting work in the best of times and circumstances. The present is definitely not the best time to be working in a juvenile institution in Oklahoma. The unrelenting and unfair criticism of our staff has diminished the respect for the staff among the resident juveniles. The net effect of this is that a normally very difficult job has been rendered nearly impossible.

In a very real sense, the critics of our institutions have become active participants in a self-fulfilling prophesy. The threat of being accused of child abuse has resulted in staff frequently failing to exercise control measures that they normally would in an effort to avoid even the appearance of using force. Much of the present misbehavior among the juveniles in our institutions can be understood as a reaction to staff reluctance to enforce customary limits on behavior. It is axiomatic in dealing with adolescents that once external behavioral limits appear to have changed, the juvenile will escalate his misconduct in order to determine and test the new limit. This "testing" misconduct prevents internalization of behavioral controls, one of the major objectives of juvenile counselling and treatment.

In plain words, all this means that the more our institutions are publicly and irresponsibly criticized, the more dangerous and difficult the work of our staff. During the last several weeks, I have received reports from staff that juveniles are actually taunting staff with the threat that if the staff attempts to exercise controls over them, then the youngster will accuse the staff of abuse. This provocative behavior is effective with many of our less experienced staff, with the result being that frequently staff receive abuse (both physical and verbal) from the juveniles and feel helpless to respond. Some staff are even demanding that we establish some kind of Staff Defender program.

It is for this reason that I am convinced that the rule of reason has been breached by irresponsible criticism of the Oklahoma juvenile institutions and the institutional staff.

Common sense dictates that out-of-control juveniles must learn to control their behavior if they are ever to return to their given community and function at an acceptable level. Current student attitudes toward staff have surely been influenced by the bizarre portrayal of our programs by certain of the written and broadcast media. The atmosphere created by these portrayals is obviously responsible for the conditions staff are laboring under today; and has undermined our ability to work with the juveniles in the institutions. If these conditions continue, the result will surely be juveniles returning to their communities with the re-enforced notion that aggressive, threatening conduct is an effective way of responding to their environment.

At the extreme, if institutional personnel are forced to continue working under conditions existing since February of this year, it is possible that the Department will be unable to continue the operation of these institutions. This could mean the small percentage of juveniles in Oklahoma that need institutional care and treatment will have to be returned to their community, or turned over to the existing private facilities who refuse to take them now, or given up to the Corrections Department.

Senator SPECTER. In accordance with the proceeding we have worked out with counsel, we will not ask you any questions at this time but will permit, as you requested, Mr. Baumberger to testify.

Mr. Baumberger, will you stand and raise your right hand?

Senator SPECTER. Do you solemnly swear that what you are about to say will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. BAUMBERGER. I do.

Senator SPECTER. Please be seated and state your full name and position.

TESTIMONY OF DR. THEODORE BAUMBERGER, SUPERVISOR, DIVISION OF INSTITUTIONS AND COMMUNITY SERVICES FOR CHILDREN, OKLAHOMA DEPARTMENT OF HUMAN SERVICES

Dr. BAUMBERGER. Theodore Schriver Baumberger. I am the Supervisor of the Division of Institutions and Community Services for Children. My employment with the department covers approximately 28 years, Senator, and I am a Ph. D. clinical psychologist and spent time in the institutions prior to their transfer to the department.

My prepared statement explains how the juvenile institution program has developed in Oklahoma since it was taken over by the department in 1961.

The statement details the careful placement policy used by the department. It shows how we emphasize the use of community resources wherever possible and available, and reserve institutional placement for only the most difficult cases that experience has shown cannot be handled in a community setting.

My statement describes the service and treatment programs of the institutions, and shows how they are designed to facilitate the return of residents to useful lives in their communities.

It comments on the loyal, hardworking, and dedicated staff of the institutions, who have been maligned by allegations that involve only a few of them, not all of which are true. My statement also comments on how we are upgrading the standards that govern our institutions.

I hope that the subcommittee will give careful attention to my entire written statement, and the materials attached to it.

I would like today to comment on several of the charges that were made yesterday about our institutional program, particularly those going to the nature and effectiveness of our programs. Those charges are not true and they gave a false impression of our programs to the subcommittee and to the public.

One of the charges was that the department commingles juveniles indiscriminately, with the result that deprived children are harmed by being closely associated with juvenile delinquents. That is just not so.

We have two facilities, at Boley and the Intensive Treatment Facility at Sand Springs, where we assign juvenile delinquents. Status offenders and deprived children are not assigned there, except in the rarest exception when an in-need-of supervision juvenile can be assigned there after a special administrative hearing.

Status offenders and deprived children go to the Oklahoma Children's Center at Taft or to Whitaker. No juvenile delinquents are assigned to these facilities.

There is a slight amount of mixing at the Central Oklahoma Juvenile Treatment Center at Tecumseh. This is a non correctional treatment facility where placement is based upon meeting certain criteria, including a positive emotional attitude and a nonviolent record. None of the charges made yesterday about improper influencing of deprived children by delinquents were related to this facility.

The only facility where there is commingling is at the Rader Diagnostic and Evaluation Center. Here, like at any other diagnostic facility or hospital, juveniles in different categories are studied to determine on a factual basis their best placement. Normally, juveniles stay here for no more than 6 weeks. The only exceptions are for special programs or for the unusually hard-to-place youngsters.

The small amount of mixing at the diagnostic center does not corrupt the deprived children or the status offenders. There is simply no evidence of this. There is nothing improper or professionally wrong about our approach in the use of diagnostic evaluation.

Another allegation at yesterday's hearing was that many juveniles enter our institutions simply because they are deprived or neglected, and it is not until they are there that they develop the characteristics that lead them to a life of delinquency. I just cannot imagine how anyone can make statements like this. The fact is that juveniles are not assigned to an institution unless and until we conclude after careful placement study that they cannot be handled in a community setting. This is especially true of the deprived children. Ninety-five percent of those placed in the department's custody are not placed in institutions, but rather in community or home settings. A juvenile does not get assigned to an institution unless he or she is a very difficult case, usually violent-prone, emotionally disturbed, or both. These are difficult youngsters to work with. These youngsters have sad backgrounds, as the Senator spoke to. They draw your sympathy. But you should not be deluded into thinking that they are young innocents that are corrupted by the institution in their entirety.

It was also suggested that the department typically assigns very young kids to the institutions. This too was not accurate. The median age of the juveniles in institutions is 16. The younger a person is, the less likely will he or she be assigned to an institution, and below the age of 13 or so, we would need very strong evidence of repeated failure to make it in the community before considering institutional placement. In 1982, thus far, no children under 12 have been placed in our institutions save one, a young adjudicated delinquent of 11.8 years of age at the time of adjudication.

The one case referred to in the testimony is a classic. I know it well. The boy involved is one of the most difficult cases we have ever had. He has not been institutionalized since the age of 7 as you were led to believe. While he was briefly at the Oklahoma Children's Center at age 8, his real institutional life began 3 years ago at age 11, after he failed in effort after effort to succeed in community placements. This kid has learning disabilities. Moreover, he has a history of violent behavior. I truly believe that he probably would not have survived had he not been institutionalized these past 3 years. Case histories like this upset me greatly. But our ability to handle them and others is not assisted by misleading accounts like those you received yesterday.

It was also claimed that our facilities are all like prisons——

Senator SPECTER. Do you intend to detail what you say are the misleading accounts that we received yesterday?

Dr. BAUMBERGER. Yes, other witnesses.

It was also claimed that our facilities are all like prisons, and that those called "open" campuses really are not. That is just plain wrong.

Oklahoma Children's Center and Taft are open campuses in the true sense of the term. They are not fenced. They are adjacent to the surrounding communities. Residents go to school off campus, they work off campus and they have social lives off campus. They are not totally free to go off campus. They must earn their privileges by good behavior. If they misbehave, they can lose that privilege temporarily. But most of the residents are free to go off campus and do so.

You were told that we do not make the existence of our policies known to our employees. That is incorrect. There are regular and routine systems for announcing and distributing policy. In addition, there are extensive training programs for staff to be informed and reminded of our policies.

You were also told that our policy on the use of force to subdue violent juveniles was elusive and constantly changing. That is wrong. Let me read you that policy as it was published in 1974. This is under date of April 17, 1974, Division of Services to Children and Youth.

> Under no circumstances shall physical force or threat of physical force be imposed upon any child except in self-defense, protection of persons or property or prevention of runaways. Such force then shall be of the nature of restraint and only sufficient to control the situation.

In accordance with the department's policy, fear, force, and violence play no part in the program of any institution.

Should physical restraint become necessary, the employee applying the restraint shall immediately submit to the superintendent a written report of the incident, including the kind and extent of physical restraint.

Senator METZENBAUM. How do you implement the policy, Doctor?

Dr. BAUMBERGER. In a number of ways.

Senator METZENBAUM. I did not hear all the testimony yesterday but I heard about one young man's ear being punctured. I heard about another man being lifted up by his arms and held up. Another where four attendants jumped on him.

Now, you hear one iota of evidence, one detail, you never really think that that means too much. But when you hear a certain amount of it, it becomes repetitive, of a different nature. You begin to believe there must be some factual basis. All of this cannot be made up. You see a young boy goes to the hospital because his eardrum is punctured.

How do you go about implementing the policy?

It is one thing to have the written words. Another thing to talk about what you do about it, and what you have done about it because, apparently, there must be some fire where there is all that smoke.

Dr. BAUMBERGER. Senator, there are various ways that we do implement policy on a regular basis. All employees who are to fill the position called Youth Guidance Specialist go to special training, and we have here the person responsible for training who can speak to that, in which the policies are outlined.

In addition, we have a program for coordinators who work with the superintendents in the development and review of policies and practices. A program in an institution or any program is never in the state of being. It is always in the state of becoming, in my estimation.

So that is a constant feedback loop in terms of practices and policies in all of our institutions and all of our programs.

For example, we instituted the Intensive Treatment Center based on the screening of violent and aggressive youth, a facility with 56 beds, approximately 14, 16 months ago. I personally participated with all the employees in the development of those policies and those practices from that—in the development of that program for over a 6-month period.

Senator METZENBAUM. Tell me how you get a report when there is a claim of violence to a child.

Dr. BAUMBERGER. I would like to let the person responsible for those reports answer. That is our grievance report system and they can speak to that in detail, if I may, Senator.

I will finish up here in about a minute, if I may, and that would probably come right next in the testimony.

I want to make this point, however. I have here reissued under date of January 1, 1982, Institutional Services Unit, this section:

> Under no circumstances is physical force or threat of physical violence to be imposed upon any child except in self-defense, protection of persons or property or prevention of runaways. Such force then is to be in the nature of restraint and only sufficient to control the situation.

This policy is also repeated in the intervening year of 1978. It is consistent and has remained the same during those intervening years.

Another criticism of our program was the student defender program. David Shafer has given a written statement on this subject and at this time I will ask him to respond to those charges leveled at that program, and I would like for Dave also to explain how the reports of grievances and abuse do come up.

[The prepared statement of Mr. Baumberger follows:]

PREPARED STATEMENT OF TED BAUMBERGER

My name is Ted Baumberger. I am presently Supervisor of the Division of Institutions and Community Services for Children of the Oklahoma Department of Human Services. That responsibility includes the juvenile institutions operated by the Department. I would like today to make some overall comments about the way the Department operates those institutions and how they tie into the overall regime of services for children and juveniles in the State of Oklahoma. I think you will see that the institutions play an important and effective part in the multi-faceted effort to rehabilitate and treat needy juveniles in Oklahoma.

Background

In 1961, responsibility for the state-run juvenile institutions was transferred to the Department, then known as the Department of Public Welfare. The Department's initial goals were to introduce a full range of professional services within the institutions, to upgrade the salary and qualifications of direct child care workers, and to renovate and repair the long-neglected physical plants of the institutions.

These goals were pursued and accomplished in the decade that followed. In addition, the Oklahoma Public Welfare Commission adopted the national standards for institutional care promulgated by the Children's Bureau of the U.S. Department of Health, Education, and Welfare. Aftercare services were initiated to reduce recommitments. Training of institutional staff was greatly expanded. Racial segregation in the institutions was eliminated. The State's statutes on children and juveniles was recodified, which confirmed the thrust toward a coordinated approach to treatment and rehabilitation of youthful offenders and deprived youth involving all branches of government.

Progress continued in the decade of the 70's, following the blueprint set forth in the planning document for statewide community services entitled "Youth in Trouble—A Shared Concern" published by the Oklahoma Council on Juvenile Delinquency. The heart of the blueprint was a balanced continuum of public and private programs, which focused on treatment of youths in their communities, utilizing institutional services where community services were not sufficient to or capable of meeting the needs, and returning the youths to the community where they could function as productive and law-abiding citizens. This has meant drawing on public as well as private resources. Since issuance of the planning document, citizens groups have met annually to make recommendations for implementing and improving the overall program. The Department has been the central supporting element in carrying out this approach to juvenile problems. One result is that Oklahoma has an extensive network of youth service agencies, private and public, designed to provide community services to children, youth and their families. The Department's Division of Court Related and Community Services (CRCS) has worked closely with this network of youth services to provide juvenile services, and to divert youth from court action and possible institutionalization.

Over 40,000 children are served annually by this coordinated system of services. Of these, only a very small portion, some 1,500 per year, are committed to the Department's institutions. These are principally youth who have exhausted the community-based resources mentioned above or who will no longer be tolerated in the communities, but retain a need for rehabilitative service and treatment. In this sense, the institutions are "last resort" alternatives where community-based options have not done the job.

Attached to my statement as Exhibit A is a pamphlet entitled "Toward Juvenile Justice in Oklahoma, 1935-1982," which gives further information on the development and advancement of the Department's balanced approach of community and institutional services. I am also attaching as Exhibit B the draft summary of a new report of the Council on Juvenile Delinquency to be issued shortly, which comments qualitatively on the Department's role in carrying out the Council's recommendations over the past decade.

Placement Policy

When a youth is committed to the Department's custody, the placement decision is determined by a team of professionals that typically includes a psychologist, a social worker, and a psychiatric consultant. In difficult cases, the team can call on the supervisors of various departmental service units as well as professional staff and supervisors in facilities where the youth has previously been served. Where further diagnosis is required, the youth will be assigned to the Rader Diagnostic and Evaluation Center where he or she will undergo a 6-8 week period of professional review. The objective is to place the youth in the setting most likely to lead to his rehabilitation and elimination of anti-social tendencies. Frequently, the placement will be in a non-institutional setting. Attached to my statement as Exhibit C is a memorandum that describes the juvenile placement policy and practices of the Department. They represent a very professional and thoughtful approach to a crucial aspect of the Department's work.

Institutional Services

The service programs at each institution are designed to meet the needs of the types of juveniles committed there. For example, at the Rader Intensive Treatment Center, which houses the most violent and serious delinquents, there is heavy stress on guided group interaction based on a positive peer group approach. The effort is to shift the juveniles from a negative delinquent culture to a positive community culture, and peer group experience and example seems to be the most promising approach. Individual counseling is provided, but the principle emphasis is on group orientation.

This facility, like the others, offers vocational training as well as regular and special education.

At Boley, which also houses delinquents, we likewise rely significantly on group treatment, with community as well as institutional staff worker involvement. An intensive small group program operates with probation and parole workers from the community co-leading the groups with professional and supervisory staff of the institution. As in all institutions, social workers are assigned to each resident, and individual treatment is also given emphasis. The CRCS staff works with the family while the youth is in custody, to better prepare for the youth's return to his home. Residents must be reviewed for release at least semi-annually, and the goal is to release them as soon as they demonstrate a capacity to live in a community setting. The small group approach continues in the community after release, and institutional staff remain involved to further aid the transition to community life.

The Oklahoma Children's Center and the Whitaker facility house children in need of supervision and deprived children. Here there is much more emphasis on individual treatment. Students have had a treatment plan when they arrive at the institutions. The institution's staff reviews and updates that plan and develops a regimen of activities to carry it out. The students function in accordance with established schedules, which include substantial recreation as well as education and vocational training. In addition, there is individual attention to the students by the professional staff of the institution and outside consultants. The focus of the programs is on how best to facilitate return of the students to the community.

At OCC there is a heavy emphasis on skill development. Whitaker receives many of our emotionally disturbed students, and in that program there is special attention to these needs.

At the Central Oklahoma Juvenile Treatment Center (COJTC), located in Tecumseh, we operate a more intensive treatment program for non-aggressive, emotionally disturbed youth who show a capacity and attitude to respond positively to the program. Professional staff are assigned to each cottage, and there is great emphasis on working with the families of the residents to deal comprehensively with the problems faced by the students. This program involves daily consultation by the residents with members of the professional staff.

Taft, Whitaker, and COJTC are open campuses, meaning that the residents have a broad opportunity to leave the facility for educational, vocational or social purposes. Also, the institutions are more accessible to people from the surrounding area. On an open campus, there is an increased likelihood of outsiders taking advantage of the residents, and thus a premium on strong, well-motivated institution staff to provide the guidance and support needed for the residents to resist undesirable temptations.

We attempt, in operating the programs, to be sensitive to the aspirations and rights of the residents. One illustration is our leave policy, which permits residents to visit their homes on temporary bases not only to maintain family ties but also to prepare for eventual permanent return to the community.

Another illustration of this sensitivity is the Advocate Defender system, which was adopted several years ago in recognition of the need to afford due process to youths in the institutions and afford them a legitimate outlet to voice their grievances. Mr. David Shafer was instrumental in establishing this program, and his statement will describe it in more detail.

Staff and Standards

We are fortunate at the institutions to have the services of professional and social work staff that, for the most part, are loyal, hard-working people committed to improving the lot of the unfortunate youth that they serve. Over the years we have worked hard to upgrade the staff positions and to recruit highly qualified people. This has not been easy, given the location of the institutions and the nature of the work. From time to time, we have had the misfortune of discovering that employees are not suited for the job, and have been unable to resist the constant provocation of the juveniles. In these cases we have sought to terminate the employees, or shift them to different responsibilities.

But these cases are the narrow exception. The vast majority of the staff has earned the support of all those interested in the proper treatment and care of youths in trouble. At this time I would like to refer to the statement of Mr. Jack Campbell, which comments on institutional staffs and their ability to perform their duties as a result of the constant criticism of recent months.

Much of the criticism has been based on stories told by the juveniles themselves. Those of us who have experience with the institutions and the youths they serve realize that the stories told by these youngsters cannot be given uncritical acceptance. Dr. Richard Rettig, our supervisor of staff training, has a unique perspective on this subject. I am sure the Subcommittee will find his statement particularly enlightening, given his personal background and his deep knowledge of the "culture" of juvenile institutions.

Recently, the American Correctional Association adopted for the first time a set of standards for the operation of juvenile institutions. These are ambitious standards, and I doubt that few, if any, states yet meet them. But Oklahoma has made a commitment to seek accreditation under these standards and is now endeavoring to bring its program into compliance with them. Mr. Shafer is in charge of this effort. When this goal is achieved, I am confident that Oklahoma will be in the forefront of the nation in juvenile institutions. In addition, I want to stress that the institutional program is but a part of a continuum of services for children and youth that stresses service to youth in their communities and return of institutionalized youth to their homes as quickly as possible.

Recently, we made a survey of the characteristics of juvenile institution programs in other states to see how Oklahoma would compare with them. The results are set forth in tabular form in the attached Exhibit D. I think a review of that table will demonstrate that Oklahoma's program compares favorably with those of other states. As we continue to improve our program, we feel our institutions will be a model that other states will seek to follow as they pursue their efforts to improve their services for needy juveniles.

EXHIBIT A

Toward Juvenile Justice in Oklahoma

1935—1982

- From political control to professional supervision
- From institutional custody to treatment
- From court-ordered institutional placement to evaluation and treatment in statewide services.

APRIL 1982

**Oklahoma
Department of
Human Services**

"Once a juvenile is apprehended by the police and referred to the court, the community has already failed; subsequent rehabilitative services, no matter how skilled, have far less potential for success than if they had been applied before the youth's overt defiance of the law."

That's what the Oklahoma Council on Juvenile Delinquency said in 1971. It continued:

"But, while the main thrust clearly must be toward prevention and keeping youth out of the juvenile justice system, the problems of those already caught in the system must be considered and appropriately confronted.

"...A continuum of services to children and youth is needed both in and out of the juvenile justice system, with the hope that meaningful and positive action will be stimulated in the youth development area.

"One agency, no matter how dedicated, cannot do the job by itself. All elements of a community, public and private, must be working toward a common goal."

"Toward Juvenile Justice in Oklahoma" outlines some of the steps taken since 1935 and records some basic facts about current programs.

From political control to professional supervision...

1935

Report on a Survey of Organization and Administration of Oklahoma.

"A Department of Public Welfare should be created for the management and control of all state welfare institutions and agencies and the performance of all state public welfare functions."

(Submitted to Governor E.W. Marland by the Institute for Government Research of the Brookings Institution, and published by the E.W. Marland Good Government Fund.)

1948

Report of the Oklahoma Children's Code Commission.

"...the transfer of children's institutions to the Department of Public Welfare would make possible better coordination of institutional and social services and assistance plans for children... Eventually, commitment to the Department of Public Welfare rather than to any single institution would make a simple process of the transfer of a child to the institution or home best suited to his needs."

(Established by the 21st legislature and appointed by Governor Roy J. Turner. Submitted by James P. Melone, Chairman.)

1958

Apathy or Action: A Survey of Corrections in Oklahoma.

"That a statewide juvenile probation system be established...to serve the juvenile courts. Possible alternatives to inclusion of juvenile probation services in a Department of Corrections would be...in an existing state agency, such as the Department of Public Welfare."

(Submitted to Senator Bob A. Trent, Chairman, Special Committee on Institutional Rehabilitation, by the Oklahoma Citizens Committee on Delinquency and Crime of the National Probation and Parole Association. Hugh Garnett, Chairman.)

1961

Senate Bill 316 and House Bills 883, 884

Transferring two state children's homes and four training schools from the board of managers of the State Board of Public Affairs to the Oklahoma Department of Public Welfare.

(Enacted by the 28th Legislature, J. Howard Edmondson, Governor, Everett S. Collins, President Pro Tempore of the Senate, and J.D. McCarty, Speaker of the House of Representatives.)

From institutional custody to treatment

1961

A Preliminary Survey:

- Overcrowding
- Understaffing
- Few programs or services
- Decades of inadequate funding and neglect

First Things First:

- Three hot meals every day
- Adequate clothing
- New beds, toilets, and showers
- Broken heating equipment, windows, doors, walls and roofs fixed.
- Children under six moved to foster homes, and nurseries at Whitaker and Taft closed.
- Staff hours reduced from as much as 84 to 40 hours a week.
- Merit System classification begun and additional staff hired.

1962

Repair and renovation programs for compliance with fire, safety, sanitation and building codes.
Remodeling of institutional facilities—200 buildings on 3,600 acres of land at six campuses—to meet child care standards.
Treatment Programs—social workers, psychologists, nurses, speech and hearing clinicians, special education teachers, recreational aides hired or reassigned from other department programs.
Reception and evaluation centers established. Medical and psychiatric services increased.

1964

Aftercare Services begun with the help of referrals to child welfare and county workers. By 1965, 15 field youth counselors were working in 22 counties, significantly reducing rate of recommitments.

1965	**Juvenile supervisory staff** training expanded. **Houseparent** study course organized.
1967	**Houseparent** training expanded to 16-week course.
1969	**Taft Training School for Girls** closed and merged with Girls Town ending racial segregation in homes and schools.
1970	**Oklahoma Children's Center** South Campus established in the former Taft Mental Hospital.
1978	**Houseparents** trained and reclassified as Youth Guidance Specialists.
1979	**Girls Town** changed from a girls training school to a co-educational treatment center.
1980	**OCC** South Campus closed and transferred to Department of Corrections. **Intensive Treatment Center** for violent, aggressive delinquent offenders opened at Sand Springs. **OCC** North Campus, rebuilt and opened at the old Taft Children's Home.
1982	**Helena School for Boys** closed and transferred to Department of Corrections.

From court-ordered institutional placement to evaluation and treatment in statewide services

1967

Corrections in Oklahoma. A second study by the National Council on Crime and Delinquency recommended a statewide system of juvenile probation services. A companion study of the state homes was completed by the Child Welfare League of America.
Pilot group home and evaluation center opened in Oklahoma City.

1969

Children's Code passed by Oklahoma Legislature, "...provides for commitment to the department for indeterminate period and appropriate placement, for juvenile probationary services, for parole and aftercare services and establishes child in need of supervision category." The Children's Code set the legal stage for the development of a network of public, private and community based services.
Oklahoma Council on Juvenile Delinquency established.
Delinqency treatment and prevention program planning funded by Youth Development and Delinquency Prevention grant.
Second Group Home opened in Oklahoma City.

1970

Diagnostic and evaluation center opened at Taft.
First **Youth Service Centers and Shelters** opened in Norman and Tulsa.

1971

Youth in Trouble, a report of the Oklahoma Council on Juvenile Delinquency, was the planning document for statewide community services in the 1970's.

1972

L.E. Rader Diagnostic and Evaluation Center opened in Sand Springs providing comprehensive evaluation for youth placed in department's custody.
Juvenile age of boys raised to 18.
Two Group Homes opened in Tulsa.

1973

Local youth service centers and shelters funding provided by YDDPA and Oklahoma Crime Commission grants.

1975

Statewide juvenile intake, probation and parole services authorized by Senate Joint Resolution 13 under contract with the Oklahoma Supreme Court. Juvenile Oversight Committee established by Supreme Court.

Court Related and Community Services Division established by the department.

1976

Juvenile Intake, Probation, and Parole Review Board organized under Supreme Court guidelines.

Law Enforcement and Corrections Minicabinet under Governor David L. Boren recommends community group homes.

Youth Service Centers funding authorized by SJR 56.

1977

Juvenile restitution program begun by Court Related & Community Services under procedural rule of Supreme Court guidelines.

1978

Class Action suit, Terry D. et al vs. L.E. Rader et al, filed in Federal District Court by Legal Aid of Western Oklahoma.

Group Home services expanded, both contracted and DHS operated, for juveniles referred by Court Related and Community Services.

1980

Public Care and Control of Youth: An Assessment by William C. Stephens recommends closing of two department institutions and funding of more community services.

Group homes expanded in Oklahoma City, Tulsa and Lawton to capacity of 80 beds (both contracted and DHS operated), providing care for about 225 juveniles annually.

1981

Revised Oklahoma Supreme Court Guidelines for Court Related and Community Services published.

Juvenile detention redefined and jailing of deprived and in need of supervision children prohibited by Senate Bill 574.

Oklahoma Commission for Human Services adopts appropriate national standards for children and youth programs and directs application for accreditation of juvenile intake, probation and parole services, community residential and institutional services by the American Correctional Association.

Child Welfare Emergency Shelters, first opened in 1957, moved to remodeled facilities in Tulsa and Oklahoma City, providing care for about 2,000 children annually.

1982

Oklahoma Council on Juvenile Delinquency publishes Youth in Trouble II, planning recommendations for the 1980's.

Class action suit settlement, as negotiated and proposed by plaintiffs and department, delayed for further agreement among all parties, including the Attorney General. Oklahoma Commission for Human Services reaffirms provisions of the stipulated agreement and adopts them as policy for operation of institutions.

An additional group home opened in Tulsa.

Residents drop as services grow

Reprinted from May 1982 News & Views

In the last five years the number of children in state homes and training schools has dropped almost two-thirds, from 4,150 in 1976 to 1,540 in 1981. This drop in institutional placements reflects more than a decade of planning and developing the network of services for Oklahoma children.

Major factors in the dramatic drop in the institutional population are:

—statewide intake, probation and parole services, developed and provided by DHS Court Related and Community Services after CR&CS began operations in late 1975;

—development and funding of Youth Service Centers and emergency shelters; and

—increased cooperation with private and volunteer child care facilities.

1981 statistics show the results:

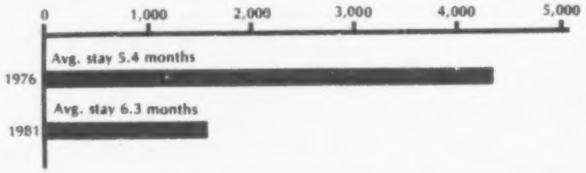
From 17,000 referrals, CR&CS workers completed 11,000 intakes and supervised 5,000 probations and 2,000 paroles and community placements. Child Welfare served more than 15,000 deprived children.

Youth service centers provided services for 15,000 youth and their families; another 5,600 children received emergency shelter services.

More than 1,500 children were in 25 private and voluntary institutions. Seven CR&CS group homes served 220 youth, and two Child Welfare homes cared for 40 children. DHS purchased services for 100 children in need of psychiatric treatment.

Those 1,540 children in state homes and training schools in 1981 represent only one-half of 1 percent of children served by the Department of Human Services. They are the ones who could not be served by the network of community based services, foster care, group homes and private and voluntary institutions.

Residents at 3 DHS training schools & 2 homes
1976 and 1981 totals



Children do not find their way to the institution by simply being abused, abandoned, neglected or engaging in delinquent acts. Each must move through the network of alternative placements.

The deprived child, when he cannot function at home or with relatives, or in foster care, and cannot use the services of guidance centers or private and voluntary facilities, may need the institution as a last resort.

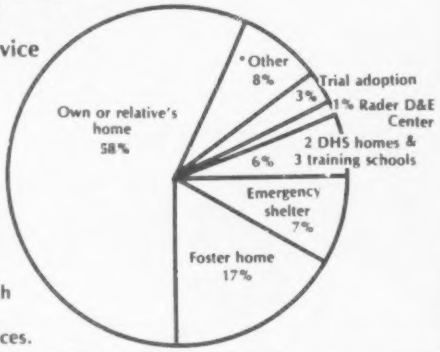
When attempts to aid the in-need-of-supervision child and family fail, and his out-of-bounds behavior does not respond to services offered in the community, he may find his way to an institution.

Sometimes a child's delinquent act places him at once out of the bounds of community tolerance. But often, with help of community based services, the child can re-

Combined Child Welfare and Court, Community & Institutional Services

8,500 children average monthly in 1981

% by type of service



***Other includes both public and private agency services.**

main within his home community and resolve his problems.

The development of a network of services offers alternatives to the child, the family and the community which were not available in the past, when institutions were the only service for the abandoned, orphaned, abused, delinquent and outcast.

In Oklahoma, planning and development of this network of services has occurred over two and a half decades.

In 1958 *Apathy or Action,* a survey by the Oklahoma Citizens Committee of the National Probation and Parole Association, made the first recommendations for a unified juvenile justice system. This report recommended that the training schools be integrated under a single administration, with competent staff under a merit system which paid uniform rates. The report also recommended amendments to the juvenile law, a statewide system of probation and aftercare, regional detention centers and modern treatment methods.

Corrections in Oklahoma, Part II, a survey by the National Council on Crime and Delinquency, was published in 1967 after being requested by L.E. Rader and the Welfare Commission. The state homes and training schools had been transferred to the Department in 1961, and the study was designed to aid in future planning.

The study not only addressed the institutional services, but the larger system of juvenile justice. Recommendations were made, as in the earlier report, for probation and aftercare services, regional detention and residential, day care and group home facilities. An advisory committee to the Department for children's services was also recommended.

The report emphasized that effective rehabilitation could not be accomplished unless the Department had control of admissions to the institutions and recommended that custody of children be given to the Department rather than to separate institutions.

The Children's Code, enacted in 1969, followed this recommendation, provided legal safeguards as demanded by the *Gault* decision and set the legal stage for the utilization of community based services as they were developed in the state.

Youth in Trouble: A Shared Concern, published in 1971, was the major planning document for children's services in the 1970s. Produced by the newly formed Oklahoma Council on Juvenile Delinquency, the advisory council to the Department, the document recommended the now familar concerns of the two earlier planning documents. Emphasis was also given to prevention, education and training for courts, law enforcement and other providers of services.

The report was not ignored. In the 1980 review of the document, 83 of the 90 recommendations had been acted on. Many were implemented completely.

In the 1970s, the Oklahoma Association of Children's Institutions and Agencies began to emerge as a unified force. Composed of both public and private/voluntary child serving agencies, the first such organization in the nation, the group stood as a partner in the network of children's services.

The Oklahoma Association of Youth Services, composed of some 40 member agencies, provided increasing services and joined in network planning.

The Juvenile Personnel Training Program of the University of Oklahoma provided increasing training for all child-serving agencies.

In late 1975, Court Related and Community Services of the Department began to provide intake, probation, and parole services throughout the state. By providing benefits in those areas not covered by the juvenile bureaus of the three major metropolitan counties, the recommendations of *Apathy or Action,* 1958, *Correction in Oklahoma,* 1967, and *Youth in Trouble: A Shared Concern,* 1971, were realized.

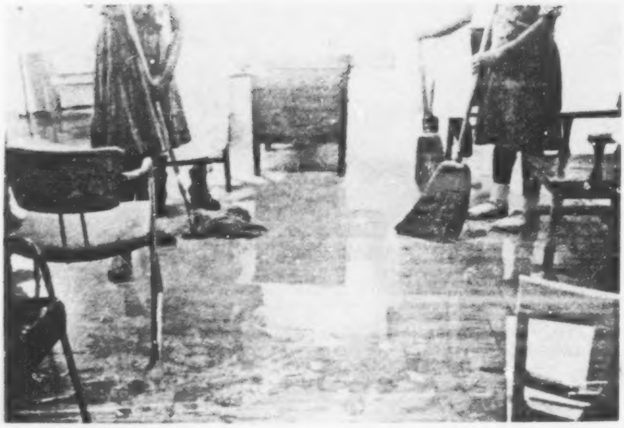
By 1978, the effects of the network of services were apparent. The rate of admissions to state facilities had dropped dramatically, services in the community had increased and alternatives to institutionalization had been realized.

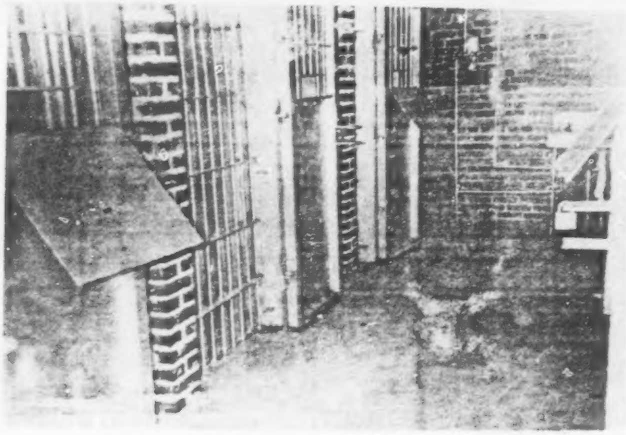
The 1980s began with a report by juvenile services consultant William Stephens which was commissioned by the Department. One recommendation—closing two of the Department's institutions—could only have come when alternatives in the communities were in place.

The decade of the '80s continues with the publication of Volume II of the Oklahoma Council on Juvenile Delinquency's *Youth in Trouble: A Shared Concern.* It contains no dramatic new directions, but a continuation of the long process of planning and implementation of a network of services for Oklahoma's troubled youth.

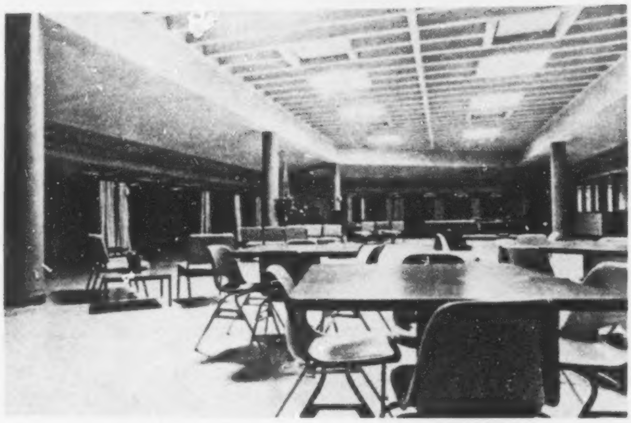
Custody in 1961

1961





1981



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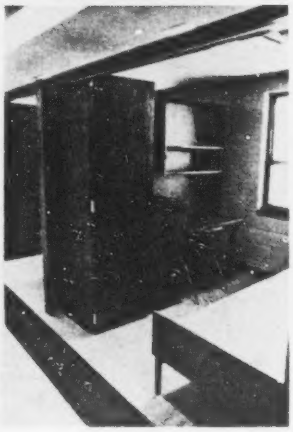
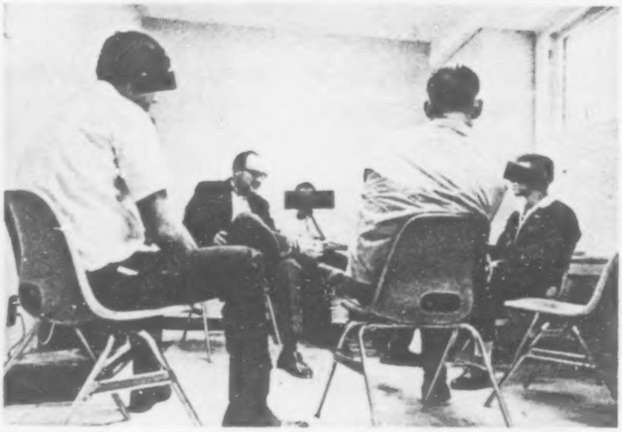
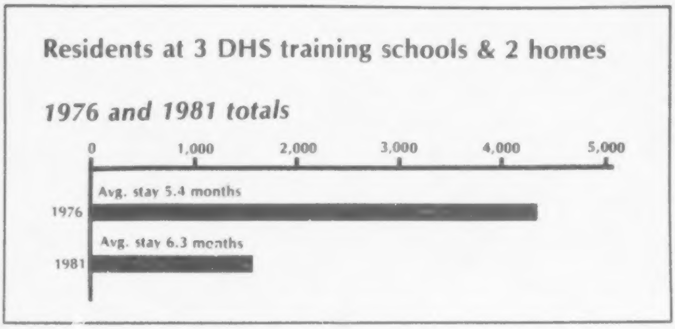
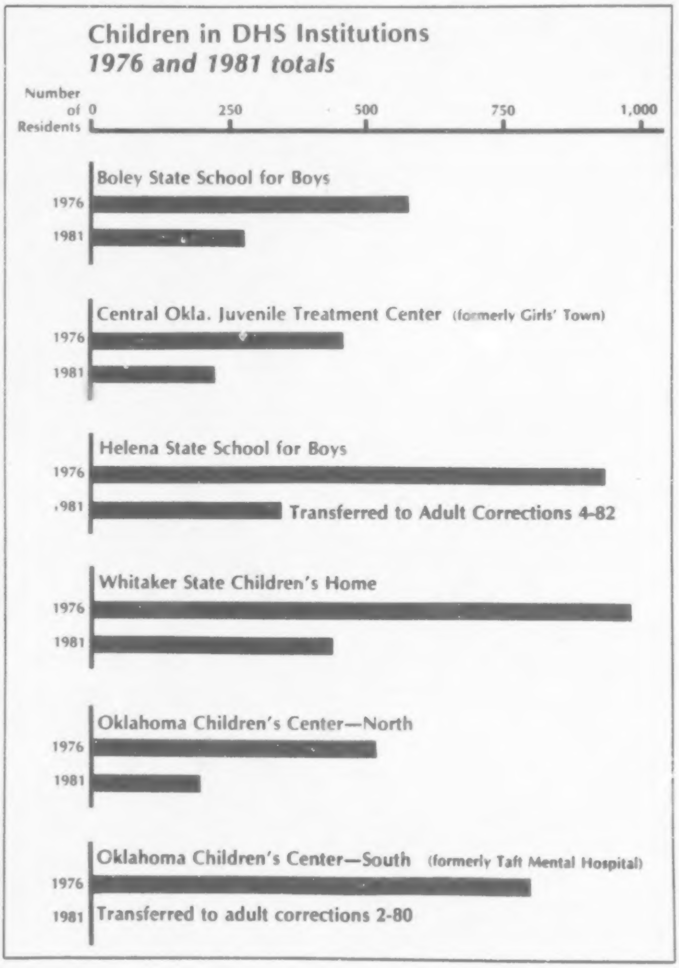


Custody in 1981







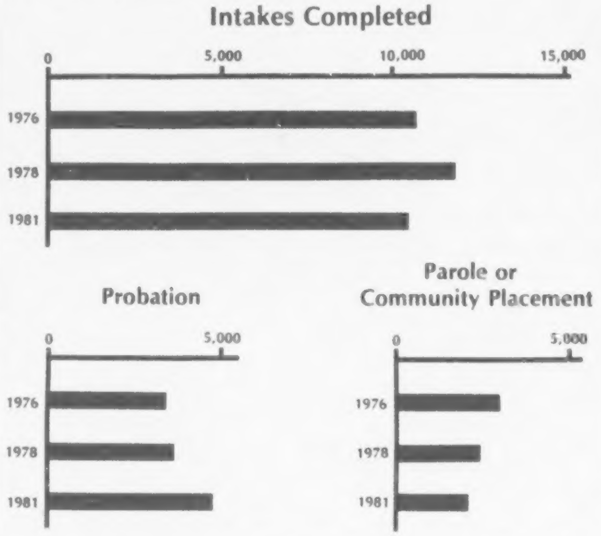
Residents drop as services grow

In the last five years the number of children in state homes and training schools has dropped almost two-thirds, from 4,150 in 1976 to 1,540 in 1981. This drop in institutional placements reflects more than a decade of planning and developing the network of services for Oklahoma children.

CR&CS and YSC serve 38,000 children at home

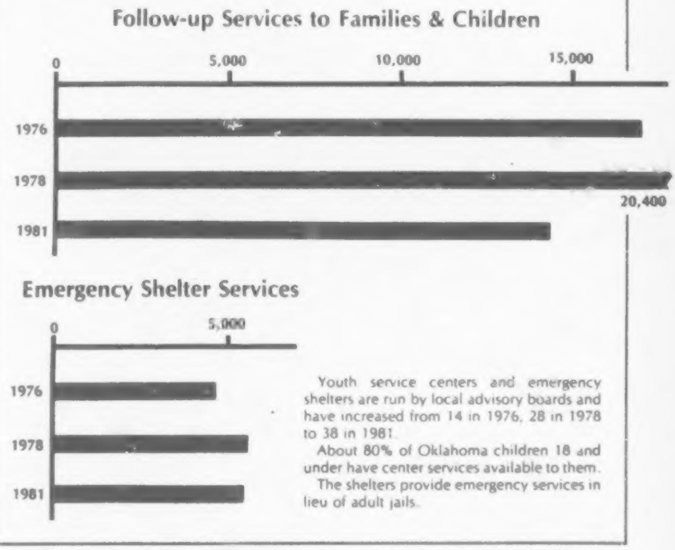
From 17,000 referrals, CR&CS workers completed 11,000 intakes and supervised 5,000 probations and 2,000 paroles and community placements. Child Welfare served more than 15,000 deprived children.

Children in Court Related & Community Services
77 County DHS Offices



Youth service centers provided services for 15,000 youth and their families; another 5,600 children received emergency shelter services.

Children in Youth Service Centers & Emergency Shelters
38 Local Centers with 29 Shelters

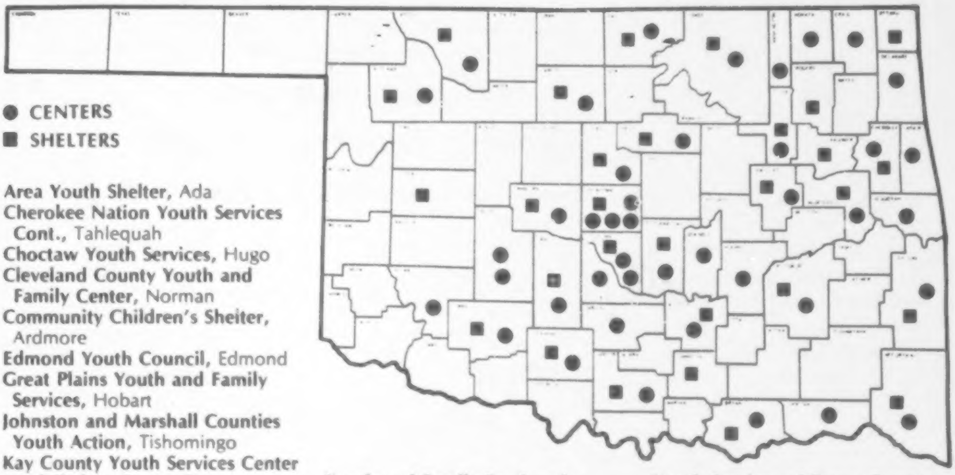


Youth service centers and emergency shelters are run by local advisory boards and have increased from 14 in 1976, 28 in 1978 to 38 in 1981.

About 80% of Oklahoma children 18 and under have center services available to them.

The shelters provide emergency services in lieu of adult jails.

Oklahoma Association of Youth Services

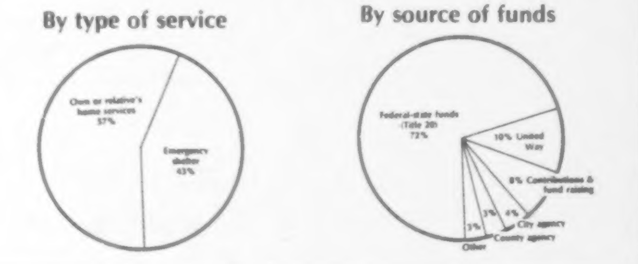


Area Youth Shelter, Ada
Cherokee Nation Youth Services Cont., Tahlequah
Choctaw Youth Services, Hugo
Cleveland County Youth and Family Center, Norman
Community Children's Shelter, Ardmore
Edmond Youth Council, Edmond
Great Plains Youth and Family Services, Hobart
Johnston and Marshall Counties Youth Action, Tishomingo
Kay County Youth Services Center and Shelter, Ponca City
Kiamichi Youth Services, Idabel
LeFlore County Youth Services, Poteau
Logan County Youth and Family Services, Guthrie
Marie Detty Youth Services, Lawton
McClain County Youth and Family Center, Purcell
Mid-Del Youth and Family Center, Midwest City
Moore Youth and Family Services, Moore
Muskogee County Council of Youth Services, Muskogee
New Directions Youth and Family Counseling Services, Anadarko
Northwest Family Services, Alva
Okmulgee County Council of Youth Services, Okmulgee
Pittsburg County Youth Services and Youth Shelter, McAlester
ROCMND Area Youth Services, Vinita
Rogers County Youth Services, Claremore
Tri-City Youth and Family Center, Choctaw
Washington County Youth Services, Bartlesville
Western Plains Shelter Organization, Woodward
Youth and Family Resource Center, Shawnee
Youth and Family Services for Hughes and Seminole Counties, Wewoka
Youth and Family Services of Canadian County, El Reno
Youth Services for Oklahoma County, Oklahoma City
Youth Services for Stephens County, Duncan
Youth Services of Bryan County, Durant
Youth Services of Payne County, Stillwater
Youth Service Center Project Community of Concern, Clinton
Youth Services of Grady County, Chickasha
Youth Services Center of North Central Oklahoma, Enid
Youth Services of Osage County, Pawhuska
Youth Services of Tulsa, Tulsa

Expenditures: *$5.4 million in Fiscal 1981*

Since 1977, funding for Youth Service Centers has not increased, essentially resulting in a decrease in centers, shelters and services.

In addition, demand for youth service workers has increased in all sectors, creating a shortage of qualified personnel. The influx of new families seeking jobs has pushed referrals in some communities to their limits.


By type of service

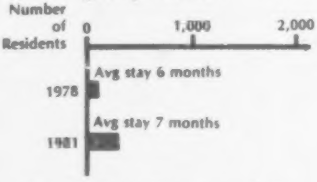
By source of funds

Alternate placements relieve pressure on institutions

More than 1,500 children were in 25 private and voluntary institutions. Seven CR&CS group homes served 220 youth, and two Child Welfare homes cared for 40 children. DHS purchased services for 100 children in need of psychiatric treatment.

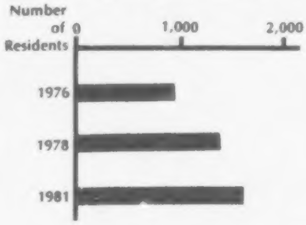
Those 1,540 children in state homes and training schools in 1981 represent only one-half of 1 percent of children served by the Department of Human Services. They are the ones who could not be served by the network of community based services, foster care, group homes and private and voluntary institutions.

Residents at group homes



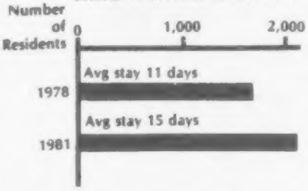
Two Child Welfare group homes served about 40 girls with an average daily residence of 14 and an average stay of 5 months. Seven Court Related and Community Services group homes served 220 juveniles with an average daily residence of 65 and an average stay of 7 months in 1981.

Residents at 25 private facilities



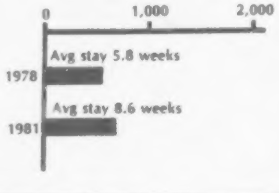
25 affiliates of the Oklahoma Association of Children's Institutions and Agencies provided a range of services for more than 1,500 dependent children in 1981.

Emergency services at child welfare shelters

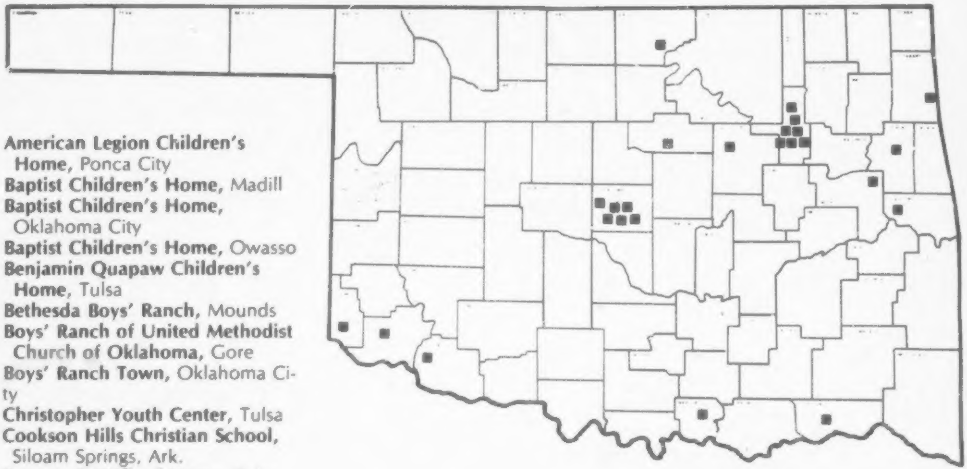


Emergency shelters in Tulsa and Oklahoma City cared for almost 2,000 children of all ages with an average daily 85 in residence. The average stay was 15 days.

Evaluations at Rader D.&E. Center



Oklahoma Association for Children's Institutions and Agencies



American Legion Children's Home, Ponca City
Baptist Children's Home, Madill
Baptist Children's Home, Oklahoma City
Baptist Children's Home, Owasso
Benjamin Quapaw Children's Home, Tulsa
Bethesda Boys' Ranch, Mounds
Boys' Ranch of United Methodist Church of Oklahoma, Gore
Boys' Ranch Town, Oklahoma City
Christopher Youth Center, Tulsa
Cookson Hills Christian School, Siloam Springs, Ark.
Frances E. Willard Home, Tulsa
Goodland Presbyterian Family Service, Hugo
Murrow Indian Children's Home, Muskogee
Oklahoma Lions Boys' Ranch, Perkins
Oklahoma United Methodist Children's Home, Tahlequah
Shadow Mountain Institute, Tulsa
Speck Home, Oklahoma City
St. Joseph Children's Home, Oklahoma City
Sunbeam Family Services, Oklahoma City
Tipton Home, Tipton
Tulsa Boys' Home, Tulsa
Turley Children's Home, Tulsa
Victory Children's Home, Olustee
Westview Boys' Home, Hollis
Youth Homes, Bethany

Private agency and institution services may range from own or relative's home and foster home to group home and/or residential care.

Twenty-five private and voluntary facilities provided residential care in 1981 for over 1,500 children, primarily deprived, but also including children emotionally disturbed, in need of supervision and delinquent.

At an estimated average cost of $700 per month per child, and a monthly average of more than 1,000 children, an annual expenditure of $8.4 million—primarily from private, non-governmental funding—is projected as a savings to Oklahomans.

60% of children's services in own home

Major factors in the dramatic drop in the institutional population are:

—statewide intake, probation and parole services, developed and provided by DHS Court Related and Community Services after CR&CS began operations in late 1975;

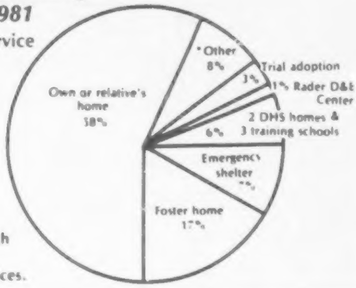
—development and funding of Youth Service Centers and emergency shelters; and

—increased cooperation with private and volunteer child care facilities.

Combined Child Welfare and Court, Community & Institutional Services*

8,500 children average monthly in 1981

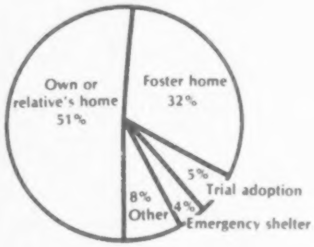
% by type of service



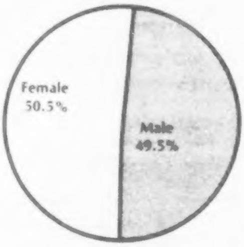
*Other includes both public and private agency services.

Child Welfare Services—*4,350 children average monthly in 1981*

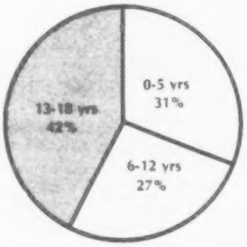
% by type of service



% by sex

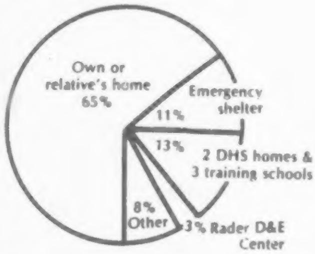


% by age

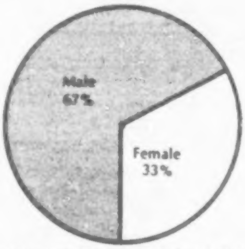


Court, Community & Institutional Services*—*4,110 children average monthly in 1981*

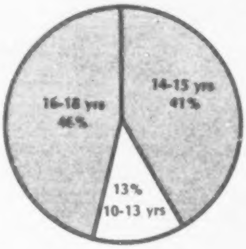
% by type of service



% by sex

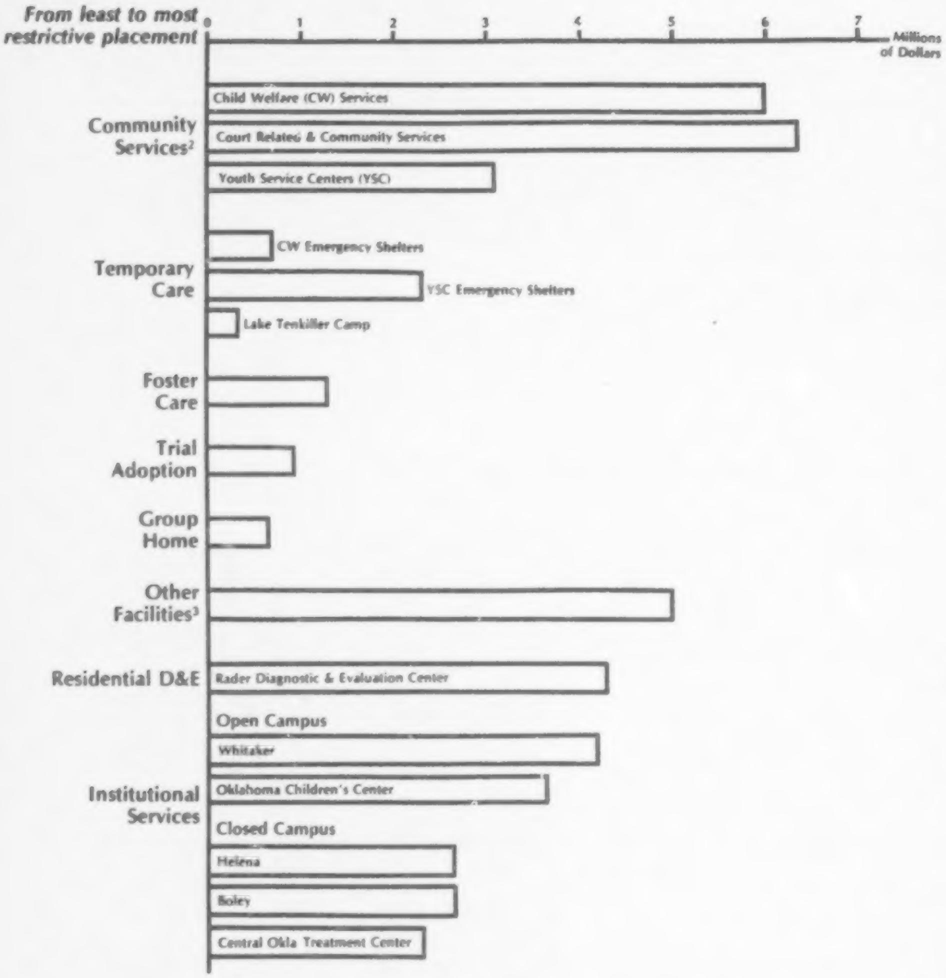


% by age



**Includes Youth Service Centers & Shelters*

1981 expenditures total almost $50 million[1]



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[1] Funding sources for DHS programs from Social Security titles 4-A, 4-B, 4-E, 5, 19 and 20 and state sales tax. For other private facilities and about 28% of Youth Service Centers funding from local schools, cities and counties, United Way, churches, other contributions and fund raising.

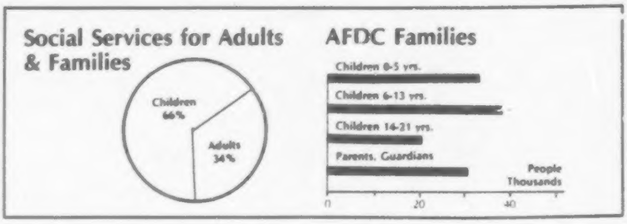
[2] Community Services with placement in own or relative's home include intake, evaluation, casework, counseling, probation, parole, restitution and other followup services.

[3] Other facilities include private institutions, mental health facilities, hospitals, treatment centers, etc.—An estimated total.

Almost 500,000 children served by DHS in 1981

Assistance payments and social services

90,000 children were in AFDC families. Many of these were among the 30,000 receiving day care and the 50,000 receiving social services.

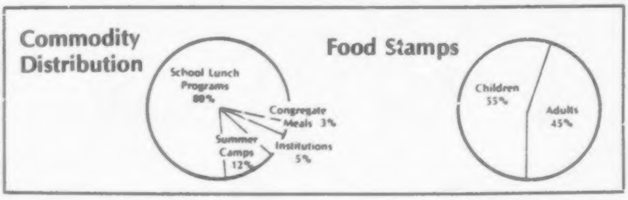


Social Services for Adults & Families

AFDC Families

Food programs

An estimated 250,000 children were in families receiving food stamps, and many of these and other students made up the 370,000 participating in 1,900 school lunch programs which were issued food commodities.



Commodity Distribution

Food Stamps

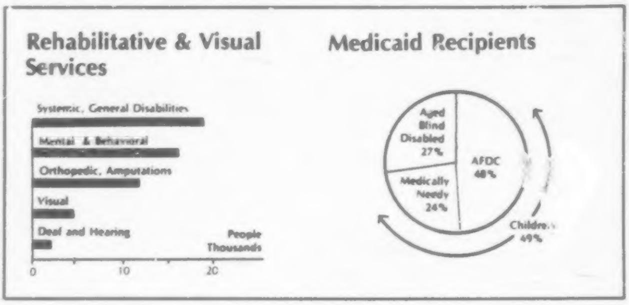
Disabled, handicapped, in need of medical care services

Over 120,000 children received medical care paid for under Medicaid. An estimated 35,000 were outpatients and inpatients at the Oklahoma Children's Memorial Hospital, Child Study Center and the O'Donoghue Rehabilitation Institute.

25% of the caseload—11,600 under ages 21—received rehabilitative and visual services.

The schools for the mentally retarded at Enid, Pauls Valley and Sand Springs provided residential care and training for more than 1,800. About 120 were admitted and more than 350 evaluations for services were completed.

In addition, 250 blind and deaf children attended the schools at Muskogee and Sulphur.

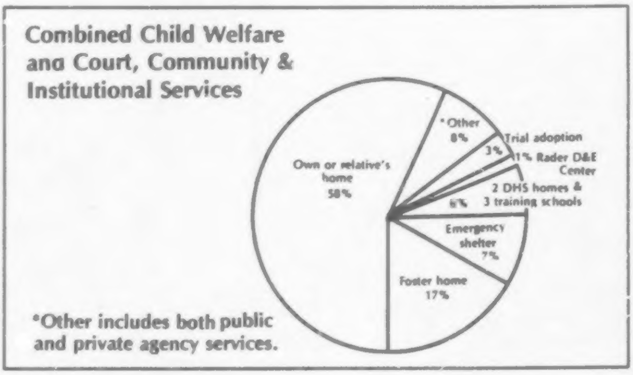


Rehabilitative & Visual Services

Medicaid Recipients

Dependent, deprived, in need of supervision, delinquent services

An estimated 50,000 services were provided for deprived, in need of supervision and delinquent children. Child welfare served over 15,000; court related and community services and youth service centers served about 38,000 in communities throughout the state. About 1,500 were placed in state homes and schools for an average stay of about 6 months.

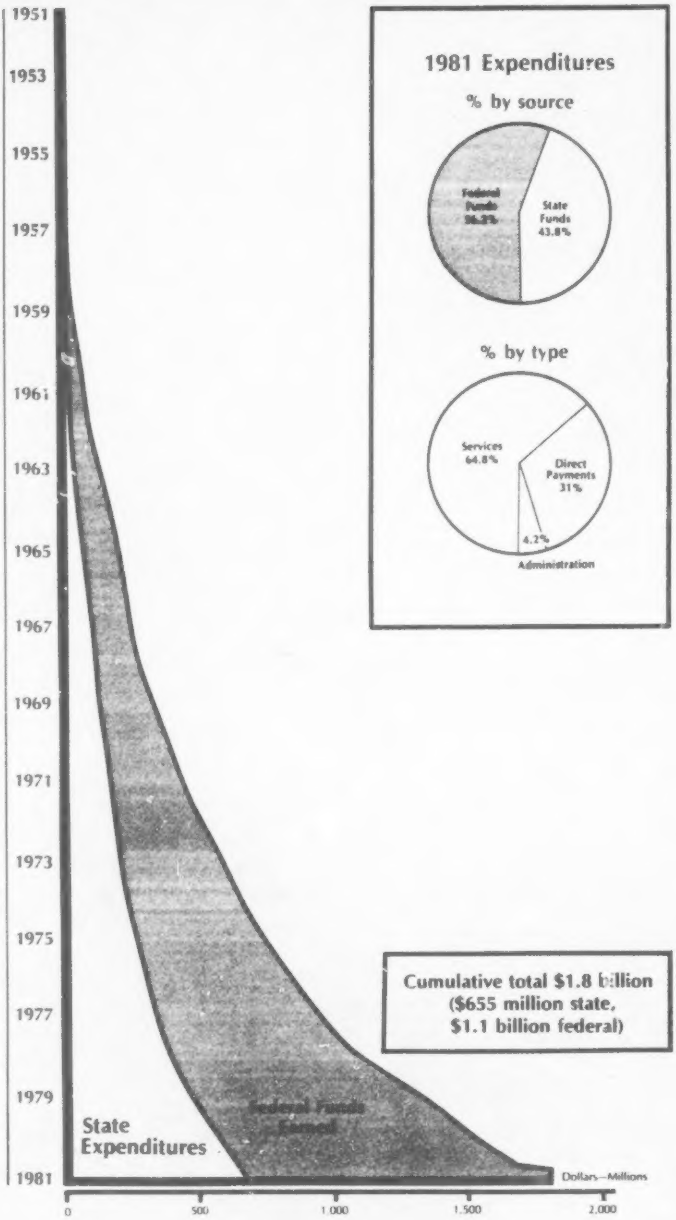


Combined Child Welfare and Court, Community & Institutional Services

*Other includes both public and private agency services.

***A child may receive more than one service. An estimated 500,000 are unduplicated.**

Expenditures on legislative transfers reach $1.8 billion



Funds to Crippled Children's Services

Funds to Crippled Children's Services

Funds to Vocational Rehabilitation

From Emergency Relief Board:
General Assistance & Commodity Distribution

From Commission for Crippled Children:
Crippled Children's Services

From Board of Public Affairs:
2 children's homes & 4 training schools

Funds to Mental Health Department
From Mental Health Department:
3 schools for mentally retarded

From Education Department:
2 schools for blind & deaf children

Funds to Corrections Department & Div. of Charities & Corrections
From Education Department:
Vocational Rehabilitation
From Libraries Department:
Library for the Blind and Physically Handicapped

Funds to Health Department
From Mental Health Department:
Taft Mental Hospital

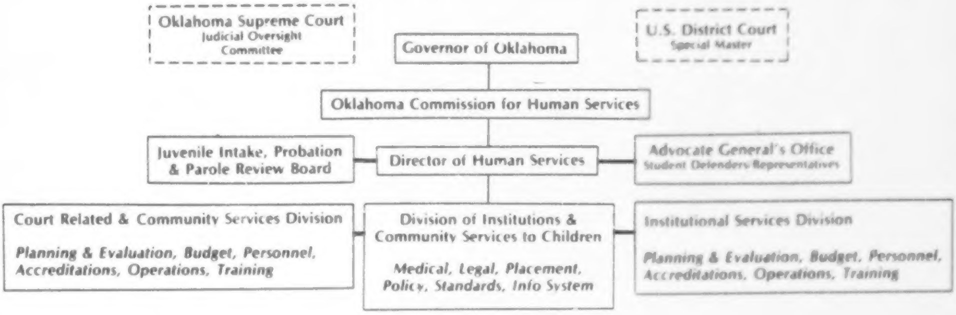
Food Stamp Program
Rader Children's Diagnostic, Evaluation & Treatment Center
From OU Board of Regents:
Oklahoma Children's Memorial Hospital
Child Study Center

OCMH Expansion

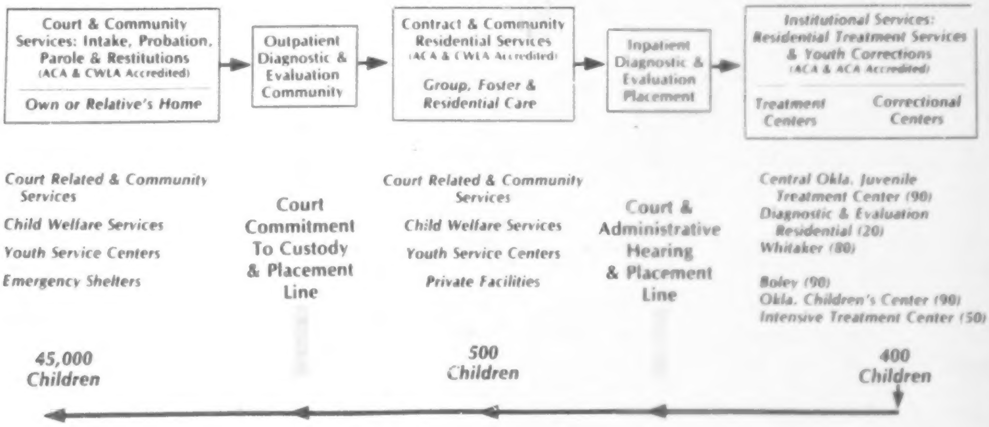
**Cumulative total $1.8 billion
($655 million state,
$1.1 billion federal)**

Systems Design

Proposed Stipulated Agreement of Terry D. vs Rader


Oklahoma Supreme Court
Judicial Oversight Committee
Governor of Oklahoma
U.S. District Court
Special Master
Oklahoma Commission for Human Services
Juvenile Intake, Probation & Parole Review Board
Director of Human Services
Advocate General's Office
Student Defenders Representatives
Court Related & Community Services Division
Planning & Evaluation, Budget, Personnel, Accreditations, Operations, Training
Division of Institutions & Community Services to Children
Medical, Legal, Placement, Policy, Standards, Info System
Institutional Services Division
Planning & Evaluation, Budget, Personnel, Accreditations, Operations, Training

Least Restrictive Continuum of Direct Services & Placement Alternatives


Court & Community Services: Intake, Probation, Parole & Restitutions
(ACA & CWLA Accredited)
Own or Relative's Home
Outpatient Diagnostic & Evaluation Community
Contract & Community Residential Services
(ACA & CWLA Accredited)
Group, Foster & Residential Care
Inpatient Diagnostic & Evaluation Placement
Institutional Services: Residential Treatment Services & Youth Corrections
(ACA & ACA Accredited)
Treatment Centers
Correctional Centers
Court Related & Community Services
Child Welfare Services
Youth Service Centers
Emergency Shelters
Court Commitment To Custody & Placement Line
Court Related & Community Services
Child Welfare Services
Youth Service Centers
Private Facilities
Court & Administrative Hearing & Placement Line
Central Okla. Juvenile Treatment Center (90)
Diagnostic & Evaluation Residential (20)
Whitaker (80)
Boley (90)
Okla. Children's Center (90)
Intensive Treatment Center (50)
45,000 Children
500 Children
400 Children

Accreditations: ACA-American Correctional Association; CWLA-Child Welfare League of America; JCAH-Joint Commission on Accreditation of Hospitals—Psychiatric Facilities for Children.

DHS Pub. No. 82-21

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EXHIBIT B

Summary of Report

....the test of a first rate intelligence is the ability to hold two opposed ideas in the mind at the same time, and still retain the ability to function. One should, for example, be able to see that things are hopeless and yet be determined to make them otherwise.

F. Scott Fitzgerald

Summary

This report about juvenile delinquency in Oklahoma is the inspiration of interested and concerned professionals and other citizens across the state. It is the result of a dedicated effort by members of the Oklahoma Council on Juvenile Delinquency. It is the product of concentrated discussions and deliberations at many statewide conferences. Most significant, it is the manifestation of the willing acceptance on the part of the Department of Human Services of its role as the statewide planning agency for juvenile services.

Clearly the thrust is toward prevention and keeping youth out of the juvenile justice system. But its interest includes the problems of those already caught in the system. Concern for all children is the key.

The report's predecessor, Youth In Trouble - A Shared Concern, called for a continuum of services to children and youth with the hope for positive action. Volume I has been through many printings and has been distributed widely across Oklahoma and the nation. And it has been, and continues to be, read. Its recommendations, however, have become more than mere words. Positive action has occurred. The responsibility for leadership rests with the Department of Human Services. And the Department, under the direction of L. E. Rader, continues to respond. The single most important response by the Department occurred as a result of the 1974 Statewide Conference's recommendation for a system of basic court-related services to children statewide. The Department's staff assisted Council members in drafting SJR-13, landmark legislation codified in Title 10, Sections 601-606. The Department's staff drafted the agreement mandated by that legislation and drafted the guidelines for developing and maintaining that system, a system envied throughout the country. Basic services of intake, probation, and parole to children referred to court now exist.

The Department recognizes the need for continuing support and advice from outside. The Council is but one source of this assistance. The statewide conferences on juvenile delinquency meet annually with participants from across the state and across the barriers that exist in other states but disappear in Oklahoma when the concern for the welfare of children becomes the focus.

From the multi-adjudicated delinquent, to the helpless victim of abuse and neglect, from the eager, enthusiastic worker who longs to help but lacks necessary skills, to the teenager who needs a job, this report attempts to examine, or at least touch, the various complexities surrounding, not only the current issues and problems of delinquency prevention and control, but those anticipated during the coming years.

The climate for change and taking risks still exists in Oklahoma. We Oklahomans do not fail. We may not succeed at every opportunity, but we learn from our mistakes. And we persevere. Our accomplishments are copied; our triumphs, envied. This report does not presume to be inclusive but following its forerunner, described as "a beginning," it is a continuation and a call for positive action.

EXHIBIT C

April 30, 1982

MEMORANDUM TO THE SUBCOMMITTEE ON JUVENILE JUSTICE, UNITED STATES SENATE

Re: Juvenile Placement

The Oklahoma Department of Human Services developed a Placement Team concept in 1969 when the Oklahoma Children's Code was revised. This recodification of the statutes relating to juveniles ended the practice of county judges designating a specific institutional placement for juveniles whose custody was vested with the Department. Prior to this time, each county court had the potential for their own individual institutional response to offense behavior and little uniformity existed between counties as to where juveniles were placed.

The supervisors of the three operating divisions of DHS which have responsibilities for services to juveniles in DHS custody were designated as a Placement Team for the Department. In performing day-to-day placement coordination, the Placement Team has delegated this responsibility to certain staff.

The Placement Section, Division of Institutions and Community Services for Children, was established to determine the appropriate community level or institutional placement best suited to meet the individual needs of juveniles placed in DHS custody as INS or delinquent, as required by Oklahoma Statutes Title 10, Section 1135 and in accordance with Oklahoma Human Service Commission policies. The Department's response to being vested with custody of a juvenile will vary depending on the category of adjudication as dictated by statutes limiting the type of placements which may be considered. Very broadly speaking, 10 O.S. § 1135 sets forth the Department's responsibilities in placement planning:

> The Department shall review and assess each child committed to it to determine the type of placement best suited to the child and in the case of children who have violated State Law, to the protection of the public. Such review and assessment shall include an investigation of the personal and family history of the child and his environment and any physical or mental examinations considered necessary.

This review and assessment is an ongoing process and is not limited to new commitments. Also included are juveniles recommitted to the Department who are subject to administrative movement processes, who are processed through Interstate Compact and movement between institutions, placements to private facilities, group homes, specialized foster and relative homes, etc. Thus, placement personnel in the Division of Institutions and Community Services for Children are responsible for placement planning for DHS custody juveniles adjudicated In Need of Supervision or Delinquent. Placement planning for juveniles adjudicated Deprived is the responsibility of the Division of Child Welfare. There are instances when these two operating Divisions coordinate their efforts in making placement when there is the request to place a Deprived juvenile in the Diagnostic and Evaluation Center, a State Children's Home, or when there is a need to make a placement plan for a pregnant juvenile.

Juveniles may be committed to the Department by the District Courts of the State when found to be (1) Deprived, (2) In Need of Supervision or (3) Delinquent. There are statutory and policy limitations as to types of placements which may be utilized for each category of adjudication. Juveniles adjudicated Deprived may not be placed in training schools and Delinquents may not be placed in state homes. The Department "shall not place a child under ten years of age in an institution maintained for delinquent children." (10 O.S. § 1138(c).) The ability to effect placements best suited to a juvenile's needs or to the protection of the public requires that all pertinent data relative to a juvenile's situation and circumstances be completely communicated to personnel making placement arrangements. This data serves as documentation of all efforts to intervene in the juvenile's anti-social behavior, maladaptive responses to life situations, and the Department's efforts to divert from further involvement in the juvenile system. This data also documents efforts made to comply with elements of the Indian Child Welfare Act. The Placement Section assesses all available data on the individual case, and by delegation of the Placement Team, designates the Department's placement response.

The Placement Team is directly involved when the need situation is complex or controversial. By policy, only the Placement Team may authorize a screening or admission to the Intensive Treatment Center at Sand Springs.

A policy provision also exists for a Grand Staffing to occur when a juvenile's treatment needs are especially difficult to provide or understand. This group is comprised of DHS executive level personnel and involves outside professionals having direct knowledge of the case. Joint staffings also occur with staff of the Phil Smalley Center, Department of Mental Health, for DHS custody admissions and discharges to and from that program.

Placement plans for juveniles adjudicated INS and delinquent are coordinated and authorized pursuant to policy set forth beginning in Section 1715.11 of the Human Services Commission Manual. This policy covers the Department's procedural response to 2,250 placement plans yearly. Each placement plan is made on an individual basis and recorded in the Placement Section. The information contained in these records is used to produce monthly, annual and fiscal year reports to the Placement Team.

In addition to coordination of placement plans, the Interstate Compact on Juveniles is supervised by the Placement Section. This operation places and returns for placement, approximately 570 juveniles yearly between the 50 states. Statutory basis for these movements is found in 10 O.S. § 531.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA*

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*/ This memorandum prepared by DHS personnel under the supervision of Dr. Ted Baumberger.

EXHIBIT D

PRELIMINARY TWELVE STATE SURVEY OF JUVENILE PROGRAMS

I. LEGAL BASIS AND DEFINITIONS:

A. Age Limit.

Ohio - 12 yrs. to 18 yrs. Can keep to age 21 if committed before age 18.

Kansas - 18 yrs. unless married then 16. Jurisdiction until age 21.

Maryland - 18 yrs. - Jurisdiction until age 21.

Colorado - 18 yrs. - Jurisdiction until age 21.

Missouri - 17 yrs.

Alabama - 18 yrs. - Jurisdiction until age 19.

Pennsylvania - 10 yrs. to 18 yrs.

New Mexico - 18 yrs.

Louisiana - 16 yrs. thru 17 yrs. if In Need of Care or In Need of Supervision.

Texas - 18 yrs. - Absolute option at age 15 by County.

Arkansas - 18 yrs.

Oklahoma - 18 yrs.

B. Categories for Adjudication.

Pennsylvania
    1. Delinquent - 2. Dependent

Ohio
    1. Delinquent - 2. Dependent - 3. Unruly

Alabama
    1. Delinquent - 2. Dependent - 3. INS

Colorado
    1. Delinquent - 2. Child In Need of Oversight
    3. Dependent & Neglected - 4. Review of Need of Placement

Maryland
    1. Delinquent - 2. Child In Need of Supervision
    3. Child In Need of Assistance

New Mexico
    1. Delinquent - 2. CHINS - 3. Abuse/Neglect

Louisiana
    1. Delinquent - 2. In Need of Supervision
    3. Dependent & Neglected - 4. In Need of Services

Texas
    1. Delinquent - 2. In Need of Supervision

Arkansas
    1. Delinquent - 2. Dependent & Neglected
    3. Juvenile in Need of Social Services

Kansas
1. Delinquent - 2. Missouri - 3. Truant
4. Wayward - 5. Deprived

Missouri
1. Delinquent - 2. CHINS - 3. Dependent & Neglected

Oklahoma
1. Delinquent - 2. INS - 3. Deprived

C. Commitment to Agency or to Institution.

Pennsylvania - Institutions

Ohio - Agency

Alabama - Agency

Colorado - Agency

Maryland - Agency

New Mexico - Agency (Corrections)

Louisiana - Institutions (Corrections)

Texas - Agency

Arkansas - Agency

Kansas - Agency (but to be placed in institutions)

Missouri - Agency

Oklahoma - Agency

D. Certification and Waiver.

Pennsylvania - Certain offenses after age 14.

Ohio - For capital offenses prior to age 18.

Alabama - For felonies after age 16 or for Misdemeanors if already in Department custody.

Colorado - For severity of offense at 16 yrs. with option to file either as adult or juvenile.

Maryland - For age 15 and over "serious crime" has automatic exclusion.

New Mexico - Jurisdiction for transfer to adult court is optional.

Louisiana - Transferred law to Adult Corrections.

Texas - Court option at age 15.

Arkansas - At age 14 County Prosecutor exercises option.

Kansas - Any felony can be tried in adult court at age 16 and over.

Missouri - Option of court at age 16.

Oklahoma - Certain offense after age 14.

E. Description of Court System (Description of Court/Agency Relationship).

Pennsylvania - Juvenile Court Judge's Commission advises court funds county operation. No contract.

Ohio - Youth authority provides technical assistance and training. They set standards through contracted subsidies.

Alabama - Court retains wardship.

Colorado - Twenty-two (22) judicial districts, only 2 have juvenile courts. No contract. Intake by county, Aftercare by agency.

Maryland - Juveniles heard by Circuit Court. No contract between court and agency.

New Mexico - County Court provides Intake and Probation. No contract with agency.

Louisiana - No uniform system, some courts have their own personnel - Others request agency services.

Texas - Each court automous, no uniform system of services. No contract with agency and court.

Arkansas - Each county court acts separately. No contract.

Kansas - State court system each court has own staff.

Missouri - Circuit Court System, County basis, agency operates separately. No contract.

Oklahoma - Contract between Supreme Court and Department of Human Services. Each county has juvenile docket as part of State Court System.

II. ADMINISTRATIVE LINE UP:

A. System-wide Coordination and Planning.

Pennsylvania - Each county's funding is dependent on an individual plan that meets statewide standards.

Ohio - No statewide planner - Various associations impact planning.

Alabama - No system.

Colorado - Limited planning - Various agencies participate. There was a Council on Juvenile Delinquency but does not currently function.

Maryland - The Department of Health and Mental Hygiene is responsible for maintaining a 3 year plan.

New Mexico - No statewide planning.

Louisiana - The Youth Services Division coordinates a statewide plan.

Texas - Little organization - Some planning by Governor's Crime Commission - A new statewide Probation Commission is being put in place.

Arkansas - The statewide planning is done by Division of Youth Services.

Kansas - The Governor's Advisory Committee is comparable to the J.D. Council. Social and Rehabilitative Service Agency is responsible for statewide planning.

Missouri - Very loose planning and coordination. Some done by Juvenile Justice Association and by Juvenile Justice Review Commission.

Oklahoma - Department of Human Services is the designated agency for planning statewide Juvenile Services. J. D. Council is advisory body for DHS and Commission.

B. Administrative Responsibility for Children's Institutions.

Pennsylvania - Juvenile Court Judge's Commission appointed by Governor and in Governor's office. Institutions operated by Department of Welfare.

Ohio - Ohio Youth Authority.

Alabama - Department of Youth Services an independent state agency with Authoritative Board made up of Congressional District Representatives and State Department Heads.

Colorado - The Department of Social Services.

Maryland - The Juvenile Services Administration is a division of the Maryland Department of Health and Mental Hygiene.

New Mexico - Department of Human Services delivers services to CHINS and Neglected. The Corrections Department administers the institutions.

Louisiana - Division of Youth Services is under the Department of Human Services but the institutions are administered by the Corrections Department.

Texas - The Texas Youth Council is responsible to a six member board appointed by the Governor.

Arkansas - The Division of Youth Services is under the authority of the Department of Human Services rules by a seven member board appointed by the Governor.

Kansas - Operated by the Department of Social and Rehabilitative Services.

Missouri - The Division of Youth Services is responsible to the Director of the Department of Social Services who is responsible to the Governor.

Oklahoma - Department of Human Services controlled by seven member Commission appointed by the Governor.

C. Continuum From Prevention and Diversion Through Intake and Probation Through Institutionalization and Parole.

Pennsylvania - All but institutionalization done at county level and regulated by State Funding.

Ohio - No uniform system of preventive services, No continuum of services of uniformity.

Alabama - No continuum of services - fragmented - some subsidized services.

Colorado - No formal linkage - some private agencies - some public agency services - no continuum.

Maryland - Continuum of services provided by Juvenile Services administration with prevention and diversion by Youth Services agencies.

New Mexico - No continuum of services. Some contract services provided.

Louisiana - No continuum of services - some preventive - some diversion - no parole.

Texas - Some prevention - some diversion - no uniform continuum of services provided.

Arkansas - Contract services in community for prevention, diversion, probation and parole - no uniform continuum.

Kansas - No network of prevention and diversion services - Intake and probation by individual courts and some parole - no continuum uniformity administered.

Missouri - No continuum of services.

Oklahoma - Statewide prevention and diversion service continuum by contract with Youth Services as well as local CRCS Unit, Probation Services, Institutional Services and Parole Services.

D. Standards Accreditation.

Pennsylvania - Licensed by Welfare Department - Not interested in ACA Standards.

Ohio - No standards - ACA Being considered.

Alabama - No accreditation.

Colorado - No accreditation.

Maryland - No accreditation contemplated.

New Mexico - CWLA followed by Deprived Services - ACA under way in corrections institutions.

Louisiana - Department of Welfare Licensing.

Texas - Licensing by Department of Human Services - In process of ACA Standards.

Arkansas - No accreditation - not interested.

Kansas - No accreditation being considered.

Missouri - No accreditation.

Oklahoma - Commission directive for achieving ACA Standards for services to Delinquents, and JCAH Standards for Residential Treatment Centers. Child Welfare League has accredited Division of Child Welfare.

III. CHILD MOVEMENT/DUE PROCESS/CLASSIFICATION:

A. Centralized Placement.

Pensylvania - None - Judge determines placement.

Ohio - Uses classification system and has centralized placement based on assessment of services needed and security.

Alabama - Reception Center over 3 week period.

Colorado - No centralized placement. Each of 5 centers has a reception process utilizing the classification system.

Maryland - None - placement is made based on age and sex.

New Mexico - Placement of Neglected done by county - Placement of Delinquents done by institutions.

Louisiana - Centralized placement by Reception and Diagnostic Center.

Texas - Statewide Reception Center at Brownwood.

Arkansas - Intake and Classification Center with one institution.

Kansas - One person coordinates institutional placement others placed by area manager.

Missouri - Placement done by agency's five regional classification specialist.

Oklahoma - Placement Section at State Office for all children.

B. Intake-Release Safeguards (Parole Board).

Pennsylvania - Local county determines intake. Judge determines length of stay at institution - No Parole Board - No safeguards.

Ohio - No Parole Boards - No safeguards.

Alabama - Release Review Committee - There is an internal ombudsman.

Colorado - Parole Board made up of non-salaried members appointed by Governor - No uniformity at intake.

Maryland - No safeguards at intake other than public defender - No Parole Board..

New Mexico - Review by Institutional staff every 2 months.

Louisiana - Determined sentence - No parole board - Intake at request of court.

Texas - No Parole, no uniform intake - Institution does paroles notifies court.

Arkansas - No uniform intake, no parole board - superintendent makes decision.

Kansas - No Parole Board, release decided by Institutional Superintendent - No uniform intake.

Missouri - No Parole Board, Aftercare worker and institutional committee approve.- No uniform intake.

Oklahoma - Parole Board - Uniform Intake Guidelines.

C. Advocate Defender (Who runs and pays for?)

Pennsylvania - Back to court and private attorney, except in minor infractions which is handled by the counselor.

Ohio - None - Social worker only.

Alabama - None

Colorado - None - Complaints review by Director

Maryland - None

New Mexico - None

Louisiana - None

Texas - Grievance Committee - An appeal to Executive Director - 2 abuse investigators at each institution.

Arkansas - None - Counselor handles all grievances.

Kansas - None

Missouri - None

Oklahoma - Advocate General who is attorney and an Advocate Defender Representative at each institution paid by Department of Human Services.

D. Administrative Hearings (legal representation)

Pennsylvania - Returned to court.

Ohio - No legal representation - Only institutional workers.

Alabama - None present at hearing - Private attorney may be hired.

Colorado - No due process hearing - Legal consultant provided on demand.

Maryland - None

New Mexico - Parole Board conducts revocations - All parolees are represented by attorney.

Louisiana - None

Texas - 5 members who are attorneys go out individually to hearings - Attorney represents juvenile.

Arkansas - None

Kansas - Returned to court.

Missouri - Attorney may represent juvenile, but not mandatory. PSX does not pay.

Oklahoma - Court appointed (Oklahoma State Supreme Court "Rule 13") or private attorney represent juvenile - 2 hearing officers hear revocation or administrative hearing, one prosecutes, one adjudicates.

E. Statistics on Kids Served

Pennsylvania - Delinquent referrals 35,238
Committed to public institutions 1,323
Committed to private institutions 1,096
7% commitment rate
1,870 to other programs - Drugs, group homes, etc.

Ohio - No figures available

Alabama - Three institutions - 1,200 juveniles
5 group homes - 269 juveniles

Colorado - 360 delinquents in institutions
60 delinquents in contract placement
70 beds available in residential care

Maryland - 44,600 cases came through intake in 1980
17,108 went to court - 1,051 in institutions

New Mexico - 270 delinquents in institutions
500 on parole
955 deprived in foster care

Louisiana - 6,817 juveniles served
657 juveniles placed in institutions
1,732 referred to court

Texas - 950 delinquents in institutions
175 delinquents in group homes
3,000 children in delinquent system

Arkansas - 4,483 juveniles services
In 1980 - 794 committed to institutions

Kansas - 24,000 formal court proceedings
1,000 youth committed to agency
900 in community-based programs

Missouri - 782 committed to agency
240 committed to training schools
194 to residential facilities

Oklahoma - Commitments 1981
428 Delinquent
236 I.N.S.
416 Deprived
10,752 Intakes
$148,000.00 Restitutuion Paid

16,757 Information & Referrals
1,217 Institutional Admissions
680 Total Institutions, December 1981
2,180 Paroled
4,886 Probation Cases

F. Detention Practices.

Pennsylvania - By order of court in separate facilities.

Ohio - By the court.

Alabama - Local court jurisdiction.

Colorado - Five regional detention facilities - Hearing held within 24 hours - Jail detention possible

Maryland - Only delinquent detained in jail - Four statewide detention centers with 140 beds.

New Mexico - Most counties have juvenile detention facilities. Some courts use training schools.

Louisiana - Ordered by judge.

Texas - By local court, only delinquents.

Arkansas - Ordered by local court

Kansas - Four detention centers in four metropolitan areas. Jails may be used as last resort.

Missouri - Court ordered.

Oklahoma - Only delinquents can be detained. Judge has to order detentions. Must be detention hearing next judicial day. There are two juvenile detention centers.

IV. TREATMENT RESOURCES:

A. Emergency Shelters

Pennsylvania - Each county has individual responsibility to have shelter or buy services from another county.

Ohio - All locally operated - No statewide standard of operation or oversight.

Alabama - Local shelters, but not used by agency.

Colorado - Shelters are available in some counties. No statewide program.

Maryland - One 20 bed facility and emergency foster homes at $15.00 per day.

New Mexico - 2 contracted shelters with maximum of three months stay.

Louisiana - Eight facilities across the state that are locally funded.

Texas - Local county operation.

Arkansas - Total of 12 shelters that are locally funded.

Kansas - State operated shelters in four metropolitan areas.

Missouri - Regional shelters under contract.

Oklahoma - Twenty-nine shelters contracted by agency.

B. Education Services

Pennsylvania - All facilities provide full educational services by contract with local school board.

Ohio - Educational services operated by youth authority accredited with both academic and vocational emphasis.

Alabama - Agency operated education services at all facilities.

Colorado - Educational services provided by agency in treatment units.

Maryland - Education program run by agency.

New Mexico - Traditional educational program with institutions.

Louisiana - Every placement plan must have an educational component.

Texas - All institutions have their own school - Teachers must be certified.

Arkansas - The youth services division operates its own school at each institution.

Kansas - Contracted services through local school board.

Missouri - State Board of Education has oversight - Institutions have their own school - Some public schools are used.

Oklahoma - Contracted with local school board with full scope educational program.

C. Mental Health Services

Pennsylvania - Mental health services provided by institution with psychiatric services on contract.

Ohio - Liaison with Mental Health Department.
One institution for mentally disturbed.

Alabama - No provision for mentally disturbed child except to commit to Mental Health Department.

Colorado - Very little coordination with Mental Health Department - Little treatment for juveniles.

Maryland - The youth division is a sub-division of the Mental Hygiene and Health Department.

New Mexico - Contracted mental health services.

Louisiana - Contract services from mental health services.

Texas - Full mental health services and contract services available.

Arkansas - Contracted by youth services division.

Kansas - Juvenile programs or grounds of mental health facilities much like Oklahoma.

Missouri - Department of Mental Health cannot refuse a referral of juvenile on a mental health problem.

Oklahoma - Six facilities that are public or private owned for referral sources, with contract services available to community services.

D. Group Homes - Halfway In/Out

Pennsylvania - 100 group homes all privately operated.

Ohio - Contract services and must meet youth authority standards.

Alabama - Agency operates 5 group homes.

Colorado - No state-operated group homes. Private group contract - 60-70 beds to DSS for residential care and post institutional beds.

Maryland - 15 state-owned group homes leased to operator.

New Mexico - None

Louisiana - 35 group homes privately operated under contract.

Texas - Six agency operated homes built by private investors 22 beds each.

Arkansas - Two state-owned group homes and 13 private-owned group homes.

Kansas - All group homes are on contract basis.

Missouri - Fifteen group homes and three park camps as alternative to institutional placement.

Oklahoma - Twelve group homes - Five group homes operated by state agency with forty beds - Seven contracted group homes with 51 beds.

E. Foster Homes

Pennsylvania - 16,000 children in foster homes with average rate of $5.00 per day.

Ohio - Four levels of foster care from free homes to $35.00 per day.

Alabama - No foster home placements are made.

Colorado - Foster homes are paid from $149.00 per month to $271.00 per month, 80% state, 20% county. 100 children in foster care.

Maryland - Payment of $263.00 per month.

New Mexico - 250 foster homes with 955 deprived children in foster care paid from $130.00 per month to $300.00 per month.

Louisiana - Does not use foster care.

Texas - Pays $12.00 per day for delinquents and $6.00 per day for neglected.

Arkansas - Pays from $111.00 per month to $150.00 per month.

Kansas - Pays $4.90 per day to $8.40 per day by age of child.

Missouri - Pays $180.00 per month - Have 12 foster homes

Oklahoma - Pays $300.00 to $400.00 per month - 1,578 foster homes - 1,514 foster children in homes - 72 children in private institution care.

F. Institutions

Pennsylvania - Seven public care facilities for delinquents with 194 violent beds and 550 non-violent beds. Five private delinquent facilities with 850 beds. All dependent children in 90 private facilities. Nine institutions, eight male and one co-ed.

Alabama - Three institutions and one diagnostic center.

Colorado - Two delinquent facilities with capacity of 236. Two youth camps, 60 beds each - Five regional detention centers with 140 beds.

Maryland - Two major institutions (1) Boys - 347 beds (2) Young boys and girls - 258 beds (3) Four forestry camps - 40 beds each (4) Four detention centers (140 beds).

New Mexico - Two institutions (1) 250 boys (2) 20 girls.

Louisiana - Four training schools operated by Corrections.

Texas - Five public institutions. Sixty private institutions used and a total of 300 institutions in state.

Arkansas - Two institutions, one is for older males. 794 commitments in 1980.

Kansas - Six facilities for delinquents - Two located on mental health campus.

Missouri - Four facilities, one for boys, one for girls. Two youth centers - Total, 240 beds.

Oklahoma - Six institutions, one for intensive treatment or violent offenders, co-ed, one for older delinquent boys, one for younger delinquent boys, one co-ed treatment program, two for INS and deprived.

G. Health Services - Institutions

Pennsylvania - Resident doctor - 24 hour nurse care
Psychiatric services on contract.

Ohio - Complete medical staff, some by contract.

Alabama - Provided by contract.

Colorado - Contracted by unit (24 children)

Maryland - Contracted physicians and nurses on staff.

New Mexico - Routinely available and provided.

Louisiana - Contracted by institution.

Texas - Have medical director and contract on fee schedule. Contract psychiatric services.

Arkansas - 24 hour nursing care available - Physician one day per week on contract.

Kansas - Contract physician and nurses on staff.

Missouri - Division of Health maintains institutional health program.

Oklahoma - Contracted physician and psychiatric services. Full time nurses staff.

H. Restitution (who runs?)

Pennsylvania - Operated independently by county.

Ohio - Local court ordered only.

Alabama - None

Colorado - Locally operated in some counties.

Maryland - Ordered by court only.

New Mexico - No formal program - Criminal code provide $2,000.00 can be ordered.

Louisiana - Locally, but no statewide program.

Texas - No program.

Arkansas - Local court program only.

Kansas - Local courts only.

Missouri - Operated by circuit courts.

Oklahoma - Oklahoma State Supreme Court-DHS adopted statewide program operated by the Agency with 1981 total of $147,881.09. Three levels of restitution: volunteer, prosecutorial and court. Overseen by the Division of Court Related and Community Services.

Senator SPECTER. The procedure which has been worked out by our counsel and your counsel has been for Mr. Miller to respond next and then to proceed to questions. So we will defer to Mr. Shafer on response to questions until we proceed with the format that has been established.

At this time, if you are finished, Mr. Baumberger, we will call upon Mr. Miller, as it has been worked out.

Mr. C. MILLER. We had Mr. Baumberger and Mr. Miller who would be our principal spokesmen and then the other witnesses would be called upon by them to fill in with specific aspects of the testimony.

I may not have said—told Mr. Cohen that specifically in the list of witnesses I gave him, but that is what we worked out, to give you a hearing program. It does not make any difference to us.

Senator SPECTER. If it does not make any difference, let us proceed with Mr. Miller.

We will have time for questioning of Mr. Shafer.

Mr. C. MILLER. Before the day is over, I do want to be able to respond to all of the points that were made yesterday and we will do that in any order. But I hope we will have that opportunity.

Senator SPECTER. You certainly shall have that full opportunity.

Mr. Miller, will you stand and raise your right hand?

Do you solemnly swear that what you are about to say will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. G. MILLER. I do.

Senator SPECTER. Will you state your full name and title?

TESTIMONY OF GEORGE MILLER, SECRETARY TO THE DIRECTOR, OKLAHOMA DEPARTMENT OF HUMAN SERVICES, ACCOMPANIED BY K. GREGORY TUCKER

Mr. G. MILLER. Mr. Chairman, members of the committee, my name is George Miller. My title is Secretary to the Director. I have served in that position for approximately 1 year.

Senator SPECTER. Do you wish to make an opening statement, Mr. Miller?

Mr. G. MILLER. Yes, sir.

Mr. Chairman, the department has been prepared since March 5 to respond to all questions raised in your first hearing in February. We have, of course, had only about 20 hours to prepare for the new allegations made to the committee yesterday. We will, however, make as full and complete a response to these as we possibly can today.

Our very first response to the allegations which were given in the hearings yesterday——

Senator METZENBAUM. You said you have been prepared to respond since March 5.

Did you attempt to be heard by this committee? Were you denied that opportunity?

It is my understanding that the committee was having difficulty getting evidence from your department before the committee. I myself was reluctant to participate in issuing subpenas but indicated I would if necessary. Now you are suggesting that since March 5 you have been wanting to be heard.

Are you saying that you have been denied that opportunity?

Mr. G. **Miller**. We have been prepared continuously since March 5 to respond to the allegations that were presented in your February hearing.

Senator **Metzenbaum**. That is not my question. You said you were prepared. To whom did you say you were prepared? Did you say to Senator Specter, I want to be heard? Did you say to the staff people, I want to be heard? And you were denied that opportunity?

Mr. G. **Miller**. Sir, we responded in writing through our counsel to counsel for the subcommittee.

Senator **Metzenbaum**. I am still asking you the question; did you indicate you wanted to be heard and were you denied that opportunity?

Mr. G. **Miller**. Absolutely.

Mr. C. **Miller**. Senator Metzenbaum, we did not say we were denied the opportunity. There were two points to the question. I believe what Senator Miller is saying, and what I informed him, on March 5, we made a large written submission in response to all the allegations that have been made. It was in writing and was given to the subcommittee. We have said since then we are prepared to come to speak to the subcommittee at its pleasure to respond orally. I did not say we were denied that opportunity. We were ready to make that response.

Senator **Metzenbaum**. Isn't it a fact before the committee could proceed, they were asking you for certain information, and isn't it a fact that you or some other attorney representing the division was not forthcoming with that information, and isn't it a fact that Senator Specter then spoke either with you or with someone else, actually at my suggestion, indicating that the committee was prepared to issue subpenas if you were not forthcoming with the evidence?

Mr. C. **Miller**. The last part of your statement is correct. I did speak with Senator Specter along the lines you described. The earlier parts of your statement are not correct. We did not withhold information. We did respond and supply large amounts of information to the subcommittee. We debated with the subcommittee staff over some of the items requested. They modified their request. We responded to the request as modified. Some things we did not give as requested. They asked us again. Senator Specter called me and discussed a number of those items on the phone. We have since responded to virtually all those requests.

Senator **Specter**. Mr. Miller, it is true in conversation that you and I had that the subcommittee staff felt that you had not responded to what had been requested. I do not know that it is useful to go into that, but I am prepared to do that.

You and I had a conversation, at Senator Metzenbaum's request, when the issue of subpenas came up. The subcommittee thought you did not respond. Isn't it true that we did not receive these statements in response from the Department of Human Services until yesterday late in the morning?

Mr. C. **Miller**. You got the statements late yesterday; that is correct. I agree with you, Senator Specter, I do not want to go into this. You and I have debated this twice. I would rather get to the allegations.

Senator **Specter**. Mr. Miller, you and I had a telephone conversation at some length and I will say that it concluded on an agreeable note; that there were issues, there were some disagreements between Mr. Miller and the subcommittee and we endeavored to work them out and I think there was a constructive move forward. Then Mr. Miller and I met for some 2 hours late in the evening last week and again we made some progress in moving toward the hearing which would enable us to get the facts here.

I have no objection to going into it in some detail.

Senator **Metzenbaum**. I just want to be certain. I gathered an inference from Mr. Miller's statement that since March 5 they have been ready to testify and did not have the opportunity to testify.

I gather he is saying that again today.

Is that what you are saying?

Mr. G. **Miller**. Senator, we never said we were not given an opportunity to testify. Senator Specter's statement is I think a fair one and I agree, we have had some differences in the past. I hope they have been resolved. We want to go forward and are here to do that on that basis of Senator Specter's outline.

Senator **Specter**. Mr. Miller, you may respond.

Mr. G. **Miller**. Our first response was to propose to Governor George Nigh that the Oklahoma State Bureau of Investigation thoroughly investigate every allegation. This law enforcement body with the assignment of up to 40 trained agents has exhaustively investigated every allegation and information available to us indicates that the OSBI has found no support for the allegations pertaining to the juvenile programs operated by the department.

Senator **Specter**. What is the basis for that assertion?

Would you identify yourself?

Mr. **Tucker**. I am Greg Tucker of Covington & Burling. I was introduced earlier.

Mr. G. **Miller**. As a party to the investigation, we have been informed from time to time as to how the investigation was proceeding.

Senator **Specter**. Mr. Miller, I received a telephone call earlier this morning from Senator Nickles on the subject matter of that statement which is in your prepared text, that OSBI, the Oklahoma State Bureau of Investigations, found no support for the allegations pertaining to the juvenile program operated by the department and Senator Nickles informed me that he had information from Don Sharp, Deputy Director of the OSBI, that your statement was false. I talked to Mr. Sharp myself in the presence of Senator Nickles before this proceeding began, and Mr. Sharp has said that is not true; that there have been several matters forwarded for prosecution. And I want to interrupt you on that statement at this time because that is a very fundamental point which ought to be supported if you are going to make that representation under oath to this subcommittee.

Mr. G. **Miller**. Mr. Chairman, if I would be allowed to respond, I will tell you that this statement applies to the department as a whole and not to maybe some specific individual who is an employee of the department.

Senator **Metzenbaum**. Isn't the department made up of people?

Mr. G. **Miller**. Sir, the department is the one that is under investigation.

Senator **Specter**. The department operates, Mr. Miller, through its agents, servants and employees. The department has no life aside from the people who are operating for it.

Mr. G. **Miller**. Mr. Chairman, there have been individuals who are employees of the department that have perhaps broken the rules.

Senator **Specter**. So you are saying that there is evidence as to individuals employed by the department of human services who have broken the rules and violated the law?

Mr. G. **Miller**. There are allegations that they have, sir, and I am sure this information will be forwarded to the appropriate District Attorneys. To date, no charges have been filed.

Senator **Specter**. You said a moment ago that they have broken the rules. Are you saying now there are only allegations they have broken the rules?

Mr. G. **Miller**. I said they have broken the rules of the department.

Senator **Specter**. The department has ascertained that some individuals have broken the rules of the department?

Mr. G. **Miller**. The rules of the department; that is not the same as perhaps having violated the statutes of Oklahoma which could be prosecuted by a District Attorney.

Senator **Specter**. Perhaps not the same but perhaps the same.

Mr. G. **Miller**. Sir, all I can say is that the record will have to speak for itself.

Senator **Specter**. The department has conducted investigations which show that individuals have broken the rules of the department?

Mr. G. **Miller**. Yes, sir, and we will testify to that.

Senator **Specter**. So that on your assertion here, quote, unquote, this law enforcement body, close quote, referring to the Oklahoma State Bureau of Investigation, "with the assignment of 40 trained agents has exhaustively investigated every allegation and information available to us indicates that the OSBI has found no support for the allegations pertaining to the juvenile programs operated by the department."

Well, Mr. Miller, I am at a loss how you can say that that is true if the OSBI—if you concede that Mr. Sharp has told me that the OSBI has forwarded matters for criminal investigation. The OSBI has found information which supports the allegations pertaining to the juvenile programs operated by the department.

Mr. G. **Miller**. Mr. Chairman, I think what we are trying to say is that the investigations so far have concluded that the department responded properly in regard to any of these incidents.

Senator **Specter**. Well, that is simply not what your statement says here. Your statement says that the OSBI has found no support for the allegations pertaining to the juvenile progams operated by the department. Your statement does not say that the department has been acting properly.

Mr. G. **Miller**. We want to make that clear. We appreciate your asking for clarification.

Senator SPECTER. When you say "information available to us," what is that information? What is the source of the information? I ask you that, Mr. Miller, to play the cards full up. Mr. Sharp says under Oklahoma statute these matters are confidential and not subject to disclosure in advance on the transmission to the report of the Governor. So if information is available to you, according to what I said, it would be a violation of the Oklahoma confidentiality statutes.

Mr. G. MILLER. Sir, the only way I can respond is that the reports go to the office of the Governor and counsel for the Governor has made this indication to us.

Senator SPECTER. Who is counsel to the Governor?

Mr. G. MILLER. David Hudson.

Senator SPECTER. And what has Mr. Hudson said to you?

Mr. G. MILLER. That in regards to the allegations that have been raised, the investigation has concluded that the department's response was proper.

Senator SPECTER. Has that investigation been completed?

Mr. G. MILLER. No, sir, the investigation will be ongoing and I am sure new allegations that were raised in the testimony yesterday will also be the subject of investigation by this team.

Senator SPECTER. Did counsel for the department make any comment to you about the rules which have been broken?

Mr. G. MILLER Sir, I am very aware of what the statute says.

Senator SPECTER. What does the statute say?

Mr. G. MILLER. Well, the statute says that the information developed by the Oklahoma State Bureau of Investigation must be submitted to the Governor and that it is privileged so far as that information is concerned; that the Governor then makes the appropriate referrals to law enforcement.

Senator SPECTER. And the counsel—I intend to have him called.

Mr. G. MILLER. The counsel for the Governor has not given us any information concerning any specifics.

Senator SPECTER. What information has he given you?

Mr. G. MILLER. There have been reports in the local media in regard to district attorneys refusing to file charges as a result of information which was forwarded to them by the Governor.

Senator SPECTER. I am not concerned about reports of the media. What I want to know is the name of the counsel of the Governor.

Mr. G. MILLER. David Hudson.

Senator SPECTER. And again, I want to know what it is he said.

Mr. G. MILLER. Mr. Chairman, the statement is intended to reflect that the conclusion reached by the investigators is that there has been no violation of statute as a result of—what I am intending to say is the department acted properly in its response to these allegations and there was no violation of the statutes in the manner in which the department responded.

Senator SPECTER. That is what Mr. Hudson said?

Mr. G. MILLER. That is my understanding. I did not talk to him directly.

Senator SPECTER. You did not talk to him directly? Whom did he talk to?

Mr. G. MILLER. I indicated, sir, it was through counsel.

Senator SPECTER. Well, whom did he talk to?

Mr. G. MILLER. Mr. Tucker, Greg Tucker.

Senator SPECTER. Thank you very much.

You may proceed.

Mr. G. MILLER. As to the allegations made before the committee, the full record in each case confirms several things:

No. 1, that mechanisms are in place to enforce department policy prohibiting mistreatment; two, that you have ready access to advocates and do use the opportunity to complain about conditions or treatment; three, that all allegations of abuse are promptly investigated; four, that serious allegations are immediately brought to the attention of senior department officials; and, five, that when misconduct is confirmed, appropriate action is taken against the offending employee. This can be demonstrated by testimony presented yesterday by juvenile witnesses.

I would ask you to recall the incident involving a student named John as reported by a juvenile witness yesterday in testimony as a result of the aftermath of a visit to one of our institutions by Senate investigators. It was reported that John had been beaten by other students and that John had also received serious injuries as a result of being struck by a houseparent in the crisis intervention cottage.

We have researched our records as thoroughly as possible and it indicates that John was treated by a nurse at about 11 a.m., on April 18 for a superficial wound on his knuckle which was reportedly the result of a scuffle with other students. No other injuries were complained of or noted by the examining nurse.

Later the same day, John was voluntarily admitted to the crisis intervention cottage. He adamently refused to comply with the policy of the cottage to remove shoes and belt, for obvious reasons. He verbally abused the houseparent for an extended period. The houseparent called for assistance of two security guards in order to remove the articles of clothing. Investigative reports of the Child Welfare Division and the Inspector General indicate that the security guards forcibly removed his shoes and belt and the houseparent, during a struggle, did strike John several times. John received medical attention following the incident at the institution and at a nearby hospital emergency room. The student defender referred this case to the Child Welfare Division at approximately 4 p.m. the same day for child abuse investigation.

As a result of the initial investigation, the houseparent was immediately relieved of duty and was suspended without pay on the following day, April 19. The results of the Child Welfare investigation were referred to the District Attorney on April 20. Upon completion of the Child Welfare investigation, as well as further investigations of the Office of the Inspector General, the houseparent was terminated on April 28, 1982.

He was terminated. Also, the two security guards who were involved in the incident were terminated for failure to report the incident.

Also yesterday the subcommittee heard testimony from a student identified as Stacy who indicated that——

Senator SPECTER. Are you finished with the incident involving John?

Mr. G. MILLER. Yes.

Senator SPECTER. I have one further question; that is, did you conclude that the conduct of the institutions' employees violated the institution's standards for use of reasonable force?

Mr. G. MILLER. Absolutely.

Senator NICKLES. Before we go any further, may I finish this case? I believe part of that story was that John was attacked by some other children at the instigation of a State employee.

Did you investigate that?

Mr. G. MILLER. Our statement indicates, and our record indicates, that during the investigation, which was done by the Advocate Defender, and by the Child Welfare Division, during the statements taken from all of the witnesses, not one shred of evidence came up indicating that a bribe was offered or even encouragement was offered by staff to do harm to these students.

Senator NICKLES. Yesterday there were two witnesses that stated that they had either seen or heard a State employee offer a six pack of coke to other students to beat up John because he had talked to the Senate investigators. Do you think that isn't true?

Mr. G. MILLER. That was the testimony of a student named Stacy, and I do speak to that when I refer to Stacy.

Senator NICKLES. Stacy and David both made the allegation, I believe. Did you check into that and you find it to be false?

Mr. G. MILLER. The student to whom I was referring in the first incident was not one of the witnesses yesterday.

Senator NICKLES. The witnesses yesterday brought this out; they believed it had happened. Were other students involved in roughing up John? I am not talking about employees. I am talking about the students doing this because John had talked to Senate investigators. Was that investigated by your department?

Mr. G. MILLER. As I understand it, it was completely investigated and there was no information given by any of the student witnesses who were involved which indicates this.

Senator NICKLES. Is this the first you have heard about it?

Mr. G. MILLER. It was the first I heard of it.

Senator NICKLES. Was yesterday the first time you heard about this allegation?

Mr. G. MILLER. Yes. In fact, a great effort was made to get John to cooperate and he refused to give any information. This was at the time of the incident.

Senator NICKLES. Your then stated that the three employees that were involved in the incident which resulted in John's ruptured ear drum have been fired. Is that called intensive security? I have been there but didn't see an isolated area for protection.

Mr. G. MILLER. It is the crisis intervention center.

Senator NICKLES. Were all three of those people terminated?

Mr. G. MILLER. Yes, sir.

Senator NICKLES. They were fired?

Mr. G. MILLER. Yes, sir.

Senator NICKLES. They weren't asked to resign?

Mr. G. MILLER. No, sir. We proceeded to terminate them.

Senator NICKLES. Were they terminated as of the day of the incident?

Mr. G. MILLER. No. Under Oklahoma statute, you have to give 10 days notice. They were relieved of duty immediately, however.

Senator **Nickles**. After the 10 days notice from the date of the incident they were terminated.

Mr. G. **Miller**. They were terminated—I will give you the dates. The two security guards were terminated on May 1, 1982. The houseparent was terminated on April 28, 1982. They immediately had been suspended of duty but the termination did not proceed until such time as the investigation had gone far enough along.

Senator **Nickles**. What was the date of the incident where John had his ear drum ruptured?

Mr. G. **Miller**. The incident occurred on April 18, I believe.

Senator **Nickles**. Were they paid through April or through May 10?

Mr. G. **Miller**. As I understand it, and recall, the houseparent was suspended immediately without pay. This houseparent, of course, has appeal rights, and many times the State Merit System and the Civil Service System will require that we pay them until such time as the termination notice has run.

Senator **Nickles**. Is it possible that those three people appealed?

Mr. G. **Miller**. I am not sure.

Senator **Nickles**. If they do appeal, is it possible for them to continue to receive pay and benefits until that determination is made?

Mr. G. **Miller**. It is quite possible we will be ordered to do that; yes.

Senator **Nickles**. Yes.

Senator **Specter**. Was David questioned about the incident?

Mr. G. **Miller**. Yes.

Senator **Specter**. Did he say nothing about the six-pack bribe?

Mr. G. **Miller**. Nothing in our records reflect that he did.

Senator **Specter**. How many other witnesses did you question?

Mr. G. **Miller**. I do not have that information, but everyone who had knowledge of the incident was interviewed, to the best of our ability.

Senator **Specter**. How many witnesses were interviewed?

Mr. G. **Miller**. I do not have that information with me. I am sure the files reflect it.

Senator **Specter**. Mr. Charles Miller, will you provide that information to the subcommittee?

Mr. C. **Miller**. Certainly.

Senator **Specter**. Do you think the pendency of the investigation of this committee had anything to do with the prompt investigation and termination of these three employees?

Mr G. **Miller**. Sir, we have been looking at our programs very closely for a number of years. We have been very sensitive to this type of situation for a number of years and it all relates back to a law suit which was filed some 4 years ago by legal aid of western Oklahoma, the ACLU and others, which has been under investigation since that time, and we have been very sensitive to things like this since that time.

Senator **Specter**. When was the last time three employees were terminated so promptly as a result of such a complaint?

Mr. G. **Miller**. I can not answer that. I don't remember an incident like this in a long time.

Senator **Specter**. But you know of no incident where three employees were terminated on such a prompt investigation?

Mr. G. Miller. I know many incidents where one or two were terminated in this manner, but I don't have any memory recalling three.

Senator Boren. Mr. Miller, on what day did this incident occur?

Mr. G. Miller. I believe it occurred on the 18th, Senator Boren.

Senator Boren. When was the first investigation made of it?

Mr. G. Miller. The referral was made the same day to the Child Welfare Division, which does child abuse investigation in Oklahoma.

Senator Boren. And when was the decision made to terminate the employees?

Mr. G. Miller. They were suspended the houseparent was suspended the following day.

Senator Boren. What about the evidence of misconduct? It is pretty clear that the department made determination itself rapidly. There must have been very clear evidence that this young man was abused and mistreated.

Has evidence of this event been turned over to the District Attorney? Is there any potentially prosecutable violation of the law in this case?

Mr. G. Miller. Yes, sir. The District Attorney has indicated that he will proceed with the filing of charges and it is my understanding the reason he has not done so is he wants to get the complete investigative report of the Oklahoma State Bureau of Investigation.

Senator Boren. Which district is that?

Mr. G. Miller. Well, Franklin Rahaal is the Assistant Attorney in charge of Okfuskee County, in which this institution is.

Senator Boren. It is the district that includes Okfuskee County?

Mr. G. Miller. Yes.

Senator Specter. Mr. Charles Miller, will you provide the specifics on other individuals who have been terminated? I will not ask Mr. George Miller who they were, unless he would care to volunteer that. He says he does not. But the subcommittee would like to know how many individuals who were terminated in the past on this kind of prompt investigation, on report of these incidences because, quite candidly, from our review of the records, we have found no such information. We would not ask Mr. George Miller to substantiate that now.

On the subject of prosecutions, the matter was testified to yesterday that there have been some 20-odd prosecutions received by the department following the investigation by the subcommittee; but in the several years before, there were only two such prosecutions referred.

Mr. G. Miller. We have a witness that will speak directly to that issue later, sir. David Shafer is prepared to respond to that.

Senator Specter. We will hear from Mr. Shafer on that point just as soon as you finish.

Mr. G. Miller. Now, to get back to the incident that was related yesterday in which it was alleged that a six-pack of beer was offered as a bribe by the staff, as an encouragement for those who had snitched on houseparents, we want to tell you there is nothing in the files, nothing in the investigative interviews with students, which indicates that this was done. If it was done, none of the students related this to us.

Senator **Specter**. You are saying your files contain a statement from David which statement has nothing about a bribe of a six-pack?

Mr. G. **Miller**. Our files reflect that David was very uncooperative and refused to give information.

Senator **Specter**. You do not have a statement by David?

Mr. G. **Miller**. I am sure we do have investigative information but he was very reluctant to discuss it.

Senator **Specter**. What about John?

Mr. G. **Miller**. I am sure that we have a complete investigative file on John. Of course, John was not a witness here yesterday, but I am sure——

Senator **Nickles**. He is the boy that was roughed up and you mentioned he had some marks on his knuckles as if he had been in a fight. I was wondering if he mentioned, in his report, that John was roughed up by six or seven students, as it was alleged yesterday.

Mr. G. **Miller**. In one of those reports there is the information that he made—or the statement that he made to the nurse that a couple of kids had jumped him.

Senator **Nickles**. Did he say he was attacked because he was talking to investigators?

Mr. G. **Miller**. The nurse's report doesn't indicate it.

Senator **Nickles**. He had talked to the investigators, one day before?

Mr. G. **Miller**. I believe that is correct, Senator Nickles.

Senator **Nickles**. Has any other reason ever surfaced concerning this fight with the other kids?

Mr. G. **Miller**. No, sir. But I think it is a rather common occurrence with this student, based on his record.

Senator **Specter**. Senator Metzenbaum.

Senator **Metzenbaum**. Mr. Miller, following up Senator Nickles' question, it is a rather broad statement you made just then. This one young man talked to the Senate investigator and all of a sudden the next day eight kids jump him and beat him up pretty badly and your response is it is a rather common occurrence for the young man to be involved in altercations.

Doesn't it strain the credulity of this whole situation to think that a young man who happens to be the one who speaks to Senate investigators happens to also be the one that gets beat up by eight other kids the next day? It is just difficult for me to sit here and think, what a coincidence in time.

Doesn't it occur to you the same way?

Mr. G. **Miller**. I can offer my private opinion and my opinion is that the fact that it was a Senate investigator had nothing to do with it. It was the fact that the investigator had talked to these people in a group rather than talking to them individually that caused a problem, and I don't think it was the fact that it was a Senate investigator. I think if I had been there and talked to them in a group and asked them the same questions, the same thing would have happened.

Senator **Metzenbaum**. Let me get that straight. He had spoken to them together, then nobody would have beaten him? But it was the one of them that spoke to him privately that got beaten up? Is that what you are saying?

Mr. G. **Miller**. No. I said if they had been talked to individually and privately, I don't think this would have happened. It is my understanding—in fact, I believe I heard testimony yesterday that the students accused him of saying something derogatory about some houseparent that was a favorite of the students.

Senator **Metzenbaum**. Do you think it was just the fact that the students resented his disparaging or being derogatory about the houseparent and therefore they decided to beat him up and it was not the offer of a six-pack?

Mr. G. **Miller**. That is my understanding.

Senator **Metzenbaum**. Did somebody tell you that?

Mr. G. **Miller**. I thought I heard that yesterday in the testimony by one of the students; that the excuse given by some of these attackers was the fact—at least he surmised, was because—he had said something in regard to a houseparent that was a friend to some of these students.

Senator **Metzenbaum**. When you made your investigation, caused the investigation to be made, didn't it occur to you at that time, since this is quite unusual, for one boy who spoke to the Senate investigator, to have been beaten up the next day by eight others? Did that not occur to you as being somewhat unusual?

Mr. G. **Miller**. It was a very unfortunate thing. But the most unfortunate thing was the manner in which the investigation was conducted, where all these people were brought together in a group and asked to speak out in a group rather than being talked to privately and individually.

Senator **Metzenbaum**. You think because the Senate investigator didn't do it the way you thought they should, you think that did not warrant further investigation on your part of the fact that here is one boy who speaks up and gets beaten up by the others—does not seem unusual to you at all?

Mr. G. **Miller**. Yes; it seems unusual because most of our investigators that go in would not talk to them as a group. He would talk to them individually and privately.

As I said, if I had done the same thing, it would probably have had the same result.

Senator **Nickles**. May I add one comment?

I did not consider my visit to Boley an investigation. I did have a group of approximately 20 students come in and relate to me their experiences and I was amazed at the number of allegations that they made. There was quite a variety of stories, some of which I think were true and some of which were probably not true. I did not consider my visit a thorough investigation. I had 20 young men together and they were quite willing to share quite a few things.

It is something very serious if one loses hearing in one ear.

I think the thrust of the State's investigation was after the incident, when he did have a ruptured eardrum resulting from a fight with six or seven individuals.

Was that investigated specifically?

Mr. G. **Miller**. I think the background on the incident also was investigated. Of course, we want to make that information available to the Senate committee.

Senator NICKLES. If there was an investigation on John's incident, we would very much appreciate the information.

It looks like you have conducted a thorough investigation on those three separate employees, and are also working on an investigation of the fight which led up to the final incident.

Mr. G. MILLER. This matter, of course, was very unfortunate and we regret it very much. The timing was—could not have been worse.

Senator NICKLES. Will you give us a copy of that incident report?

Mr. G. MILLER. I am not sure we have it in our possession today, but we will be glad to furnish it.

Senator BOREN. Mr. Miller, let me just ask you how you intend to proceed. It is my understanding that the State will come forward on those matters raised in the February hearing. I think there were four or five case studies and present answers on those and then proceed with some answers on things that were raised yesterday.

Is it the intention that the State will give its point of view on all of those allegations to the committee today?

Mr. G. MILLER. Yes, sir, I think we tried to address those in our written presentation.

Senator BOREN. Those are addressed in the written presentation?

Mr. G. MILLER. Yes.

Senator BOREN. Are you planning to verbally go into all of those today?

Mr. G. MILLER. I am only going to extend my remarks as long as time permits. I would like to be given that opportunity.

Senator BOREN. I thought that is what we were going to do today. We were going to go case by case back over the ones raised earlier. I am not trying to disrupt the plan of the committee.

Mr. G. MILLER. Some of the allegations that were made yesterday were repetitious. Just as Delors——

Senator BOREN. That was also covered in the first hearing.

Mr. G. MILLER. That was also covered in the first hearing. There were a number of incident alluded to yesterday or mentioned yesterday that were also mentioned in the February hearing. We are trying to tie those together for you.

Senator BOREN. I did not mean to interrupt. I was just curious as to what the plan was as to how to proceed.

Mr. G. MILLER. Getting back to the Stacy incident, the records show that he was seen by a nurse on April 18 at approximately 8:30 p.m. immediately following his complaint to the cottage staff that his lip was hurting. The nurse noted a minor cut. He was treated after a——

Senator NICKLES. Who are we talking about?

Mr. G. MILLER. Stacy, the juvenile who testified here yesterday.

He at that time said he was hit by other students. He refused to identify the other students. Then following a phone call from Mr. Trainor the next day, Stacy reported to the student defender that he had been jumped by one or two other students. He again refused to identify the perpetrators or witnesses, according to the student defender report. Two hours later, the student defender initiated contact with Stacy. He still refused to give the information that would be helpful. There was continued effort in subsequent days to obtain information, all to no avail.

To our knowledge, Stacy has yet to cooperate with the department staff in efforts to gain information.

Two other incidents referred to in yesterday's testimony involved a student who allegedly was involved in a peer counseling session in which he was forced into a homosexual act.

Mr. Chairman, at the proper time, I would like to ask that Mr. William Brown, who is the chief of security for institutions, be recognized to respond to that, because he investigated that incident. He also personally investigated another event reported to the subcommittee in which a student at Helena was allegedly stripped and forced to walk a long distance in a cold rain. He is available to the subcommittee and, hopefully, will be given an opportunity to respond to those two charges.

Senator NICKLES. Are we going to come back to Stacy's case? I had a brief question about that before we move on.

Senator SPECTER. Senator, I suggest that you make the inquiry now, if you choose to do so.

Senator NICKLES. Before we move on to the Patrick case, if it is agreeable to Mr. Miller, I would like to clarify our conclusions on that case.

Mr. G. MILLER. Yes, sir.

Senator NICKLES. Was Stacy's story about being beaten up substantiated in the investigation? Was that true?

Mr. G. MILLER. I do not know that we have substantiated it. We simply went on his word.

Senator NICKLES. Did you think that most of the things he said yesterday were not true?

Mr. G. MILLER. You know, I really have no way of knowing whether or not they were true.

Senator NICKLES. You mentioned that he was jumped and he was somewhat scared. He was transferred. Evidently, somebody in the department thought there was some reason to believe that it would be dangerous for him to stay at Boley.

Mr. G. MILLER. COJTC, the Central Oklahoma Juvenile Treatment Center.

Senator NICKLES. Is that located in Tecumseh?

Mr. G. MILLER. Right.

Senator NICKLES. He compared that to a hotel.

Mr. G. MILLER. Yes.

Senator NICKLES. He thinks that is a pretty good place.

Mr. G. MILLER. Right. That was done at the request of the Senate staff and we concurred wholeheartedly in that request.

Senator NICKLES. Were you afraid that he might get into some type of trouble for visiting with the Senate committee?

Mr. G. MILLER. Because of the timing of the thing and the allegations that had been made apparently to Senate staff, we thought that was a reasonable request and we were happy to comply.

Senator NICKLES. I do not remember him saying anything that would have been detrimental to a particular employee or student that would jeopardize his safety. I do not know. I am trying to remember why he said he was jumped. He sounded concerned about his safety.

Mr. G. MILLER. He turned to the Senate staff and we certainly wanted to cooperate with them.

Senator NICKLES. Thank you.

Senator SPECTER. You may proceed.

Mr. G. MILLER. Mr. Chairman, reference was made to a small boy suffering a broken arm in a shower stall incident at the Rader Center.

Senator SPECTER. What happened to Patrick?

Mr. G. MILLER. Mr. Chairman, if William Brown could be recognized at this time, he can speak to the two incidents that I referred to.

Senator SPECTER. I think it would be better if we proceeded with your testimony and then proceeded to Mr. Shafer and then proceeded to Mr. Brown and Mr. Rader, too. Let us take you one at a time. I think we will be able to move most expeditiously.

Mr. G. MILLER. Getting back to the shower stall incident, he was referred to as a small boy. Our records describe him as very large for his age who is continuously involved with fights with students and staff. The matter was thoroughly investigated and there were interviews with the student, the employee, a houseparent, a counselor, and a resident witness.

Senator NICKLES. In which institution did this occur?

Mr. G. MILLER. This occurred at the diagnostic and evaluation center in Sand Springs.

Senator BOREN. I am having a little trouble. If we could identify—in which statement yesterday, Stacy, David?

Mr. G. MILLER. I believe it was in Mr. Trainor's statement, his testimony at the beginning of the hearing.

Our records describe him as very large for his age who continuously is involved in fights with students and staff. The student admitted that he had been acting in a manner that was threatening to other students and disruptive in the cottage. After several confrontations with fellow students over a pool game, the student, identified as Charles, went down a hallway near the bathrooms and proceeded to kick out windows located in the area. After a long confrontation with a houseparent, he ran into a bathroom and held the door shut. The houseparent gained entry using the ruse of needing to use the room and Charles ran into a shower stall.

After trying to talk him out for several minutes, he repeatedly declined. The campus supervisor came to the scene and again, after refusing to come out, he was advised that he would be taken to Time Out.

At this point, the student attacked the supervisor, forcing him to grab Charles' arm. In the ensuing struggle, Charles became violently out of control. Efforts by the two staff members to subdue him were hampered by space.

As the supervisor held his arm, the situation escalated so rapidly and furiously that neither staff member involved felt that the injury could be anticipated or prevented. Both said in a statement that Charles admitted, "It is not your fault."

The incident was deemed by the student advocate to be unavoidable from the time that physical interaction between the supervisor and Charles started. The supervisor involved was described as very remorseful by the Advocate Defender and that the injury was not intentional.

The employee had worked since March 1977. His evaluations were excellent. He had been in no other reported incidents before.

However, since an injury did occur, the director ordered him relieved from duty and that the matter be referred to the District Attorney. The employee resigned voluntarily March 8, 1982.

On February 22, 1982, the District Attorney declined to file either child abuse or assault and battery charges.

Reference was made to a Whitaker State School employee, Mr. C., as being in a series of incidents, but nothing happened. A review of our Advocate Defender files indicates reported complaints relating to inappropriate handling by this person going back to mid-1978. However, only three could be substantiated. Two of them occurred late in 1981, shortly before his termination.

In 1979, there was the flashlight incident, mentioned yesterday. The finding of the Advocate Defender was that there was no intent to hit the juvenile.

One of the most discussed——

Senator SPECTER. Are you finished with the incident involving Charles now?

Mr. G. MILLER. Yes.

Senator SPECTER. As to that, I have before me a report dated November 18, 1981, which contains this notation:

> It should be noted, however, that the physical interaction itself appeared to be directly precipitated by Mr. D. Not only was Mr. C. able to enter the bathroom without force, but he was also in the process of talking to Charles without apparent risk of physical interaction when Mr. B. entered the shower stall.

You also said that Mr. D. was not involved in any prior allegation of excessive force.

Mr. G. MILLER. According to the report in the file, that is true.

Senator SPECTER. Staff counsel has just made available to me a report dated April 20, 1981, some 6 months before, which contains an allegation by a female Joan, alleging Mr. D. used unnecessary force, inflicted to get her to go to the time out room.

Another report of investigation dated March 7, 1981, involving a Betty with an allegation that Mr. D. physically abused her by twisting her arm and throwing her to the floor.

And another report of investigation dated November 13, 1980, involving Tanya, a juvenile, which contains allegations of being unnecessarily roughed up by staff. The staff involved two people, one of whom is Mr. D.

Are you familiar with these reports or any of them?

Mr. G. MILLER. I am not familiar with them, sir, and my statement was based on the reports of the persons who investigated the incident.

I would also point out that those were allegations and not substantiated.

Senator SPECTER. What was not substantiated?

Mr. G. MILLER. The information in the report.

Senator SPECTER. You are sitting here telling me they are not substantiated and at the same time you never heard of them.

Mr. G. MILLER. I feel certain that the information on which my statement was based would have reflected if they had been substantiated.

Senator SPECTER. You feel certain that your information would have contained these incidences if they had been substantiated but you were not informed about these three separate incidences?

Mr. G. MILLER. If you have information that they were substantiated, we would certainly like to have it.

Senator SPECTER. I am really not responding to questions here, Mr. Miller. I am dealing with your files and with your records and you are sitting in that witness chair under oath and saying, Mr. D. has no prior record of excessive force, and we are trying to follow you here on the spur of the moment and there are three reports which are presented and I think it is a fair question to ask you, have—if you considered those matters or knew about them or had investigated them and come to an independent conclusion before you assert before this subcommittee that Mr. D. was not involved in any other allegations of excessive use of force.

Mr. G. MILLER. Mr. Chairman, we also are operating on the spur of the moment. We are trying to respond to allegations that were made here yesterday and I did personally review the files that we had available to us and I would be glad to document for you the basis for that statement from those files.

Senator SPECTER. It has just been called to my attention, Mr. Miller, the incident involving Joan, was substantiated according to your file.

Does that change any of your testimony?

Mr. G. MILLER. I certainly would agree with you that he has problems, yes, sir.

Senator SPECTER. So your testimony was not accurate when you said Mr. D. had not been involved in any prior cases of excessive force?

Mr. G. MILLER. We think there may be some confusion with another employee.

Senator SPECTER. Take a look at the report and tell me if this is the same Mr. D.

[Pause.]

Mr. G. MILLER. Apparently the confusion lies in the fact that there were two employees involved in the incident. Mr. D. apparently had had problems previously. The other employee in the shower stall had no previous record of any incident.

Senator SPECTER. What you are testifying to now is that the prior statement that there is no evidence of prior abuse or force did not apply to Mr. D.?

Mr. G. MILLER. I would like the record corrected to reflect that.

Senator SPECTER. It shall be so corrected.

You may proceed.

Mr. G. MILLER. Reference was made to a Whitaker State School employee, Mr. C., as being involved in a series of incidents, but nothing happened.

A review of our advocate defender files indicates 10 reported complaints relating to inappropriate handling by this person going back to mid-1978. However, my review of the case indicated that only three could be substantiated, two of them occurring shortly before his termination in 1981. In 1979 there was the flashlight incident mentioned yesterday. The finding of the advocate defender was that there was no intent to hit the juvenile and, of course, one of the most discussed allegations repeated yesterday involved the reported broken arm suffered by Mike.

I will not go into great detail, but I would like to respond to some questions that were raised yesterday.

It was indicated that Mike simply was watching television. Our record indicates that—and also that he had never done anything wrong; he was not institutionalized for antisocial or violent conduct. Our records indicate that he was removed from our different foster homes over a period of several months because of disciplinary problems. His case file indicates a continuing history of violent and aggressive conduct, including assault with a weapon, threatening violence, and fighting.

He was admitted to the D&E center on July 1, 1980, and the evaluation there recommended that for future placement he needed more structure than foster care could provide since he refused counseling or testing.

As a result, he was placed at Whitaker State Home on August 18, 1980. The incident reported to the subcommittee occurred on March 5, 1981. The incident report indicates that the houseparent contacted security stating that she was having considerable difficulty and requested the security staff to come to the cottage to provide her with assistance. She stated she was having trouble with Mike and another student. Mike had been talking about doing physical harm to himself, threatening to hang himself with a belt.

Two security officers, including Mr. C., took Mike to the Crisis Management Cottage in an effort to get him settled down and enroute, a struggle occurred.

During the struggle, both officers wrestled Mike to the ground to gain control. Mike later complained of pain in his arm and was put to bed with a heating pad and Tylenol.

On the following day, Mike again complained of pain in his arm. An X-ray examination was inconclusive and he was referred to the orthopedic clinic in Tulsa for examination by an orthopedist. The clinic report indicated a possible fracture, but recommended a sling for immobilizing the arm and recommended a return appointment for X-ray.

On March 11, 1981, he was again X-rayed. The diagnosis was no fracture.

Because of allegations of inappropriate handling of a juvenile, a referral was made to the State Office for full investigation by the Inspector General. The investigative report was then forwarded to the District Attorney. The District Attorney failed to find sufficient evidence on which to press any charges. However, based on the number of complaints involving allegation of excessive force, the two security guards were terminated in January 1982.

Now, getting—I ask you to recall that one of these guards was the Mr. C. referred to yesterday.

Getting back to his long record of inappropriate handling of juveniles, back on October 30 981, he was accused of using improper methods to control. At that time he was suspended without pay for a period of 30 days. And on December 13, 1981, he is alleged to have pulled a child's hair in removing her from a room. He was placed on leave without pay on December 27, 1981. He was notified of termination effective January 19, 1982. He appealed to the State Merit System, but before the termination notice was final, his attorney asked that he be allowed to resign in lieu of termination, which is preferable since it forecloses a reinstatement by appeal. This was done.

Senator NICKLES. May I ask a couple of questions?

I personally visited Whitaker and visited with some of the people about this case. I think the administration and the department has handled such cases very, very poorly for the last couple of years.

We heard a statement yesterday in which they reported Mr. C.'s involvement in a broken-arm incident in June 1978. Is that not correct?

Mr. G. MILLER. It could be, sir, but there were only three allegations in the advocate defender file which indicated there was substantiation of inappropriate action for which he was responsible.

Senator NICKLES. I thought you said there were 10.

Mr. G. MILLER. Seven were not substantiated.

Senator NICKLES. A broken arm in 1978 is fairly substantial.

Mr. G. MILLER. But I am not sure what his particular involvement in that particular incident was.

Senator NICKLES. I believe if you look back at the case, it is alleged that the State employee that had something to do with breaking a student's arm in 1978. That is according to the statement of the superintendent, Mr. Hunt, in February 1979. He said that Mr. C. has a reputation for rough physical treatment of students in both the above allegations. Evidently there is a couple before February 1979. He said that he didn't have sufficient evidence or documentation to recommend disciplinary action. In view of the number of allegations of mistreatment, I would recommend if any further grievances are made that Mr. C. meet with the disciplinary review committee in the office.

I think he may have already met the criteria needed for a review. The statement was in February 1979. I see before me other grievances or files against him: March 1979, November 1979, December 1979, and then in March of 1981, there is another possible broken arm. You said that the X-rays were inconclusive about the presence of a fracture.

His file is growing and growing and growing and I want to know what is being done about it? That was in March 1981. When did he resign?

Mr. G. MILLER. January 1982.

Senator NICKLES. He resigned in January 1982, about 10 months after the second incident which has something to do with a broken arm. How can you say that the administration or the department has handled this case appropriately? I cannot understand your views on this.

Mr. G. MILLER. Senator Nickles, this is a problem that we have been wrestling with, and there has been a lot of evolution in the last 2 cr 3 years basically because our stand in the past have always been one of making sure that the due process rights of the employee were protected and so forth, and because of the increasing scrutiny under which these institutions have been placed, and the publicity they have been given, we have had to start acting in a more direct manner.

Senator NICKLES. What is so direct about allowing somebody to resign instead of terminating him if he is continually involved in these types of incidents?

Mr. G. MILLER. Because—and we will address this directly in subsequent testimony by Mr. Gordon.

When you get into an evidentiary hearing and rules have to be followed and you are putting an adult up against the testimony of a child whose credibility is very questionable, it is extremely difficult to get a favorable finding.

Senator NICKLES. I am not quoting the child. I am quoting Mr. Hunt, who was the superintendent at the facility in February 1979, that says, "I think we probably have enough evidence already that he should be disciplined or dismissed." That was 2 years before another individual's arm was possibly broken, not to mention four or five serious charges made in between; and then it still took another 10 months for any results to be seen. Now we find he was not fired, but that he was allowed to resign.

Mr. G. MILLER. Unfortunately, Mr. Hunt is not an attorney and these matters are all referred to our legal division and one of the things we try to determine is if there is evidence that can be sustained in a hearing.

Senator NICKLES. I thought attorneys should be trying to help protect the kids, not the employment status of State employees.

Mr. G. MILLER. They definitely are but they do have to follow the evidentiary ruling by the administrative body and the courts when these matters are heard.

Senator NICKLES. I am appalled at the administrative history of this Mr. C. case.

There was another employee involved, Mr. B. Was he also terminated?

Mr. G. MILLER. At about the same time.

Senator NICKLES. Was he, like Mr. C., not terminated but allowed to resign?

Senator SPECTER. Before you go to Mr. B. I have just one question.

Mr. Miller, I can understand the situation as to Mr. C. was aberrational. But I am perplexed at your defense of the institution's handling of Mr. C. Senator Nickles has just gone through the chronology in a very detailed way and has characterized the department's handling of it as appalling. Those are Senator Nickles' words.

Is the department's response on Mr. C. typical of the way you handle such allegations of a repetitive nature, with findings of excessive force?

Mr. G. MILLER. To answer your question, Senator Specter, it is not typical of the way we are handling these at the present time. I have responded——

Senator SPECTER. Was it typical in the period from 1978 to 1981?

Mr. G. MILLER. It has been typical that we have proceeded with caution and they are trying to make sure that all due process rights were——

Senator SPECTER. So your testimony is that the way you handled Mr. C., this is the way your institution handled it and you have defended the practice.

Mr. G. MILLER. I am not in a position to defend the institutional handling. Actually, we are a State-administered agency. The institutional recommendation comes up through the chain of command and is referred to the appropriate people and, for some reason or other, which I cannot respond to at this point, the decision was made that there was not the type of evidence available which could be sustained.

Senator SPECTER. Mr. Miller, we are trying to find a very specific factor. You have earlier said that rules were broken but those are by individuals, but the department has responded properly.

Senator Nickles has very carefully gone through the written record and has demonstrated improper handling of the department which Senator Nickles says is appalling.

What I am trying to determine is whether you believe that the department responded properly in the timeframe of 1978 through 1981 as to Mr. C.

Mr. G. MILLER. If you are asking my personal opinion, I am one that feels we should act quickly and that we should respond quickly and let the chips fall where they may so far as due process.

But, unfortunately, our legal division doesn't always agree with that.

Senator SPECTER. You have not yet answered my question. Let me state it one more time.

Do you conclude, your professional opinion based on your experience, that the department acted properly in the handling of Mr. C?

Mr. G. MILLER. Sir, if you are asking me if hindsight is better than foresight, I would say that it should have been done differently.

Senator NICKLES. Mr. B. was also involved in this same incident in which Mike, in March 1981 injured his arm and possibly broke his arm.

Mr. G. MILLER. Yes, sir.

Senator NICKLES. What happened to Mr. B?

Mr. G. MILLER. He was terminated at about the same time.

Senator NICKLES. Terminated in January 1982?

Mr. G. MILLER. As I recall, he did file an appeal but he did not follow through on the appeal.

Senator NICKLES. Let me ask you a couple of questions.

There were two security officers who were involved in this incident. Mr. B. had a bunch of allegations made prior to this incident, also.

Mr. G. MILLER. There was a history of reported allegation of inappropriate handling of children and in fact—I am sure that is correct.

Senator NICKLES. Mr. C. was not fired for the March incident. I thought he was fired for subsequent allegations that were made in October or something that—dealing with someone's hair being pulled. He sent a letter to Mr. Rader and was subsequently fired?

Mr. G. MILLER. Two incidents, one in October and one in December.

Senator NICKLES. What about Mr. B., then?

Mr. G. MILLER. I know that they were both involved in the Mike incident. I just don't have recall of all of the details.

Senator NICKLES. The incidents happened in March but yet Mr. C. was allowed to be kept on, was on the payroll, and then had two more fairly serious incidents before he was terminated. We allowed a hurt arm in 1978, broken arm in 1978, another one possibly in March 1981, and then a couple of more serious incidents before finally the department decided they would let him go; and instead of firing him, they let him retire.

Mr. G. MILLER. Resign.

Senator NICKLES. Did he get retirement? Is he of retirement age?

Mr. G. MILLER. If he has worked 10 years, he has vested rights in the retirement system.

Senator NICKLES. Is it to his benefit to be able to resign instead of being fired?

Mr. G. MILLER. Well, I think even if he had been terminated, if he had 10 years—if he had vested rights in the retirement system, he is still eligible.

Senator NICKLES. Do employees lose their benefits if at any time they commit an offense?

Mr. G. MILLER. I do not have any knowledge that they do.

Senator NICKLES. Let me ask you a question about Mr. B. He was involved in the same incident in March and was terminated in January. Is that correct?

Mr. G. MILLER. Right.

Senator NICKLES. Did he have any subsequent intervening incidents happen that caused his termination or is that just a coincidence, too?

Mr. G. MILLER. I do not have recall of a personnel file. I have not reviewed it for a long, long time, and I just could not answer that at this time. I do not know whether you have his file or not. We would be glad to provide it.

Senator NICKLES. I have. I think Mr. B. and Mr. C. are no longer employed because this committee brought some attention on their cases. If they had not been, they probably would have been there for some time.

Mr. B. was terminated. Mr. C. was allowed to resign. Mr. B., after he was terminated, appealed his case to the State Merit Board.

Mr. G. MILLER. That is my recollection.

Senator NICKLES. Was he reinstated?

Mr. G. MILLER. No. It is my recollection that he never followed through on his appeal.

Senator NICKLES. My finding is that he is now working in maintenance at the Rader D&E center.

Mr. G. MILLER. As I said two or three times, I do not have recall of his file. If you have the file—but I want to point out, this termination occurred in January prior to the hearings by the subcommittee, and I would simply say that the method in which this was done is certainly not being followed today.

Senator NICKLES. I would hope not. We are talking about action taken 10 months after the incident which prompted his termination.

Now, the fact that he was reinstated, concerns me.

Mr. G. **MILLER**. It does me, too. I agree with you.

Senator **NICKLES**. According to my notes, he is now working at the Rader D&E Center in maintenance.

If our State Merit System made the decision to reinstate Mr. B., why didn't the State appeal the finding of the Merit Board?

Mr. G. **MILLER**. We intend to respond to that question fully, Senator Nickles. I will be glad to give you my opinion and my opinion is if you do not have sufficient evidence to sustain a termination before an administrative body, you certainly cannot be sustained before a court of law where you have much stricter rules of evidence and where you have an opportunity to cross-examine witnesses and bring rebuttal witnesses.

Senator **SPECTER**. There are occasions where appeals result in reversals. Are you an attorney?

Mr. G. **MILLER**. Mr. Chairman, I would appreciate it if you would refer that to an attorney who is here and ready and willing to respond to that kind of question.

Senator **SPECTER**. You are not an attorney?

Mr. G. **MILLER**. No, sir, I am not.

Senator **SPECTER**. I think it may be said with assurance that the line of questions which Senator Nickles is pursuing—that at least on some occasions appeals do result in changes in decisions. I do not want to pursue this any further.

We are going to have a problem. We convened at 9:30, reasonably promptly, 9:34. I have to take a call. We will be in session until 1 o'clock. We have a live quorum call at 12:45 and we have a vote. We will have adequate opportunity beyond today, but I want to give you full opportunity to come to the essential part of what you want to present.

We have been in session for 1 hour and 50 minutes. We will be in session for another 1 hour and 40 minutes.

Now, Mr. Charles Miller and Mr. Tucker have prepared your presentation, I want to give them as much leeway. We cannot be foreclosed completely from asking questions but we want to give you an opportunity to respond as you see fit. I just want to put the caveat in that 1 o'clock will be the cutoff time because we have other commitments.

Mr. C. **MILLER**. Does that mean you will not resume after 1 o'clock today?

Senator **SPECTER**. That is correct. Let us see how we proceed this morning. We have the emergency supplemental appropriation which is on the floor and that poses a problem for us. But we will do our best to accommodate you. Once we start on votes this afternoon, we can be interrupted every 25, 20, 30 minutes, which is a very disjoined procedure and that is why we started an early hearing.

I want to make that caveat because our time is going to be problematical after 1 o'clock.

Senator **NICKLES**. May I ask a question and possibly offer a suggestion? After Mr. Miller's statement, I see they have four other individuals from the department plus Mr. Rader who I think would like to respond to some of the statements or questions.

We could set up a panel-type situation in which we can make a statement and then direct questions to whomever has the expertise in that area.

Senator **Specter**. We can employ that format. We can come back this afternoon to accommodate you depending on what the Senate schedule is. I want to make the point that we are operating in a very difficult setting once we move past the morning hour. Hearings are customarily held in the morning and the afternoons are for floor action.

Mr. C. **Miller**. Let me see how much more Senator Miller has.

Senator **Boren**. Mr. Chairman, will we have the opportunity to later question for example, Mr. Baumberger? I withheld on questioning because I was under the impression that we were going to have a straight run-through and then open with questions. I will have to leave at 12:15. I have to attend a conference meeting for 15 minutes and then be back.

Senator **Specter**. The procedure was 10 minutes for Mr. Baumberger and 10 minutes for Mr. Miller and then all the questions and answers.

You will have an opportunity, Senator Boren, to ask Mr. Baumberger questions.

Senator Nickles, have you concluded your line of questioning?

Senator **Nickles**. Yes.

Mr. G. **Miller**. Mr. Chairman, I would like to respond to the issue that you raised in regard to appeals to court. Those decisions are made based on recommendations of our legal division. In the hearing yesterday, you heard the testimony by Delores. It was in large part repetitious of testimony back in February. The testimony yesterday began by acknowledging a false allegation made against Hershell Daney, superintendent of the Rader Center.

Mr. Daney, in a prepared statement, submitted to the subcommittee yesterday, addressed this allegation and I do not think that it is necessary to read it into the record, the letter you received, because you have made reference to it on both occasions.

Delores yesterday repeated the allegations that she had made previously in regard to the dentist at the Rader Center.

In regard to these allegations against the dentist, I would like to say, on February 26, Delores called me at the State office. I would like to read to you from the record of that call. It is a memo from David Shafer, who is here today, telephone conversation with Delores.

"On this date I monitored a telephone conversation between Delores B., former custody child, and George Miller, secretary to the director.

"Ms. B opened the conversation by stating, 'What do you want my records for?' Secretary Miller replied that we do not want her records; that we have the records and wanted to know if she is desirous of releasing them to the news media.

"Ms. B replied emphatically that she did not want her records made public. She indicated that she was already made public that I didn't like. She said that many of the things that had been said were wrong. She stated that she had talked to Bill Trainer with the understanding that her statements were to be used in court.

She said she did not give him permission to release her story publicly.

"Secretary Miller asked her if she has told Mr. Trainer about the dentist feeling her up. She replied that she had said, 'The dentist messed up my teeth.' "

We note that the allegations against this professional are not reflected in any department record. The established policy is that no dentist sees a patient alone at the Rader Center. A female dental assistant is present at all times. This has been confirmed by a sworn statement by the dental assistant.

It is apparent to us that Delores' testimony has changed. She has retracted and restated some allegations. Based upon our own files, we discount virtually all her allegations as without foundation.

Additionally, department personnel and the news media were called yesterday by a former student, who I will identify as Laurie, who said she was Delores' roommate at the Rader Center and she said she watched the testimony yesterday on TV and made a number of telephone calls to state that Delores' charges regarding a guard exposing himself outside the window and another guard who repeatedly looked in——

Senator SPECTER. Have you finished the telephone calls?

Mr. G. MILLER. No, sir.

Looked on her in bed with a flashlight are not true. She stated flatly that the charges are false, that she was real close to her, and that they talked frequently.

Senator SPECTER. I am not following you. You are now on a telephone call where Ms. Briscoe called you?

Mr. G. MILLER. No, sir. That was a telephone call made last February. The telephone call I am referring to now was made yesterday.

Senator SPECTER. You have finished with the telephone call—.

Mr. G. MILLER. Made last February.

Senator SPECTER. Made last February.

In the course of that telephone call, let me ask you a question about it, did Ms. Delores Briscoe say that anything in her statement was untrue?

Mr. G. MILLER. Yes, she did.

Senator SPECTER. What?

Mr. G. MILLER. That is reflected in the information I just stated in the record. She did state that she did not say that the dentist had felt her up. She said the only thing she said was that he messed up my teeth.

Senator NICKLES. Did you ask her specifically about that incident?

Mr. G. MILLER. Yes, I did.

Senator NICKLES. Did she state that that was incorrect?

Mr. G. MILLER. That is correct.

Senator SPECTER. Are you aware of the fact that she repeated that statement yesterday?

Mr. G. MILLER. Yes, sir. I pointed that out. She retracted the statement to me and then restated it again yesterday.

Senator SPECTER. Aside from that one aspect, did Ms. Briscoe say in the telephone conversation to you anything else in her statement was incorrect?

Mr. G. Miller. No. She did state that she thought the information she was giving was to be used in a court matter. She did not understand that it was to be broadcast, made public.

Senator Specter. I understand. But is there anything else that is—did she tell you anything else was incorrect?

Mr. G. Miller. That is the only thing I can recall and that is the only thing reflected in the record.

Senator Specter. You may proceed.

Now you are on another telephone call?

Mr. G. Miller. Yes, a telephone call received yesterday from a former student that I will identify as Laurie, who said she was Delores' roommate at the Center and that she had witnessed the hearing yesterday on TV and that Delores' charges regarding a guard exposing himself outside a window and another guard who repeatedly looked in on her with a flashlight are not true. She stated flatly that the charges are false; that she was real close to her; that they talked frequently; and that it is just not true.

I was surprised by what she said. This student stated unequivocally that the program at the D&E and at the other department institutions had helped her. We recommended to this young lady that she communicate directly with the subcommittee staff, and we provided her with the telephone number.

We are also going to provide her name and phone number to the subcommittee staff.

Laurie said further, when I first came into the custody of the Department of Custody, I was a real brat. At no time was I injured or hurt by any employee. In fact, they were very helpful to me and she also stated that she witnessed no abuse.

The subcommittee, in February——

Senator Specter. Are you finished now with that?

Mr. G. Miller. Yes.

Senator Specter. How was Laurie able to pin down the time that she was present to negate Ms. Briscoe's testimony?

Mr. G. Miller. Sir, she simply said that she was a roommate. She was very close to her and that is the reason we wanted her to communicate with the Senate subcommittee so you could check that out.

Senator Specter. We would appreciate all of the details but for purposes of our inquiry now, were you able to ascertain during what period Laurie was a roommate?

Mr. G. Miller. No, sir. We have not had the opportunity to check those records. But we want to work with you on that.

Senator Specter. Is it customary that there be two young women in one room?

Mr. G. Miller. They are in cubicles and the superintendent of the institution is here and I am sure he can describe exactly what the layout is.

Senator Specter. That is a very simple question. Is he present? Ms. Briscoe testifed that she was in a room by herself. I just want to know if it is the practice to have a roommate.

Mr. G. Miller. There are a number of people in the room. The partitions do not go to the ceiling. They are in the cubicles.

Senator Boren. Could the superintendent respond to that question, Mr. Chairman?

Mr. G. **Miller**. Mr. Daney is the superintendent.

Senator **Specter**. Just to answer the question, Mr. Daney. Was Ms. Briscoe in a room where she would have had a roommate?

Mr. **Daney**. Yes. There would be three in a room area. It is a little area with cubicles so that there are three of them together.

Senator **Specter**. We shall pursue the information provided by the witness whom you just called our attention to and we appreciate receiving as promptly as possible the records of what the institution show as to the time period when Ms. Briscoe had roommates and the identification.

Mr. G. **Miller**. The subcommittee in February was given a record on conditions at the Oklahoma Children's Center at Taft, Okla., and the department's efforts to investigate and respond to these circumstances.

Promptly after receiving information from the Oklahoma Children's Center superintendent that drug and prostitution problems were out of control, the State office provided enforcement assistantance, initiated a major investigation, involved local law enforcement officials, and discharged two employees thought to be involved in illegal activity.

The investigation was only one aspect of the department's effort to deal with an admittedly serious problem at OCC. The budgeted security force at OCC has been tripled since September 1981. A new chief of security with 20 years of experience in law enforcement has been hired and new security procedures have been implemented.

Security facilities, including such things as improved fences, locks, et cetera, have also been significantly upgraded, primarily for the purpose of keeping unauthorized persons off the campus. A new employee screening procedure has been adopted at OCC which involves a fingerprint check through local and Federal law enforcement agencies. Every new employee agrees to conditional employment pending a report on his fingerprints.

We sincerely believe the opportunity to attack the broader problem of prostitution, and the closely related problem of drug dealing, was destroyed by untimely publicity and irresponsible interference with a law enforcement investigation.

The allegations regarding an incident in October 1979, involving a resident of Helena State School for Boys, identified as Tony B., were widely publicized by the news media and were mentioned here again yesterday. In this matter it was alleged that the Helena superintendent kicked Tony B. in the head.

Three facts should dispose of this allegation. One, medical examination by a nurse at the institution immediately after the incident found no evidence of bruise or other injury indicating Tony B. had been kicked in the head; two, perhaps no other incident of alleged abuse has been as thoroughly and exhaustively investigated by the department as this particular one; and, three, since the incident has been publicized, Tony B. has personally stated that he was not kicked or injured in the alleged incident.

On October 23, 1979, Tony, a delinquent, returned from a home visit heavily under the influence of alcohol. He was apparently distressed because of the attentions of a girlfriend to another male. Tony attacked another student and knocked a recreation worker to the floor. Tony threatened to kill the student and was escorted to a residential cottage where he became violent and began overturning furniture. He was placed in detention in another building where he attempted to slash his wrists and to hang himself with a bed sheet.

After the two suicide attempts, he was placed in restraint. The juvenile's misconduct was so extreme and continuous that both the Helena superintendent and a local law enforcement officer were summoned.

Upon his release from detention, Tony complained to the advocate defender that while he was restrained he had been kicked on the right side of his head and neck by the Helena superintendent. The only injuries identified in a physical examination by the school nurse, however, was a small scratch on his neck just below the right ear and several visible scratch marks on his left ear.

The matter was extensively investigated and testimony of persons reportedly at the scene of the incident conflicted. The matter was referred to the department's Disciplinary Review Committee, which convened on November 8, 1979, approximately 2 weeks after the incident and 1 week after the conclusion of the investigation.

The committee determined "The allegation of inappropriate handling was not sustained by the facts. The conduct of the superintendent does not amount to abuse of a juvenile; that no injury occurred as a result of any action that he took; that no evidence was received which sustained that adverse personnel action should be taken; that although physical contact with the student occurred at the time, there was no evidence of any intent on the part of the superintendent to harm or injure the juvenile."

Tony B. is now living in the Oklahoma City area. Following recent news media publicity related to the incident, Tony B. met with his former superintendent and reported that he had been solicited at the time of the incident by employees to make trouble for the superintendent. He also stated that the news media stories were not correct.

He subsequently appeared on television in Oklahoma City to state, in effect, that the superintendent's account of the incident was correct.

It is unfortunate that the subcommittee was not given the full account of this incident as reflected in the department's records, including the facts showing the rapid and thorough investigation by the department. Indeed, had the subcommittee investigators interviewed Tony B., their testimony would most certainly have been very different. The now complete account of this incident demonstrates the response of the institution to Tony B.'s severe provocation was appropriate and raised no issue of abuse or brutality.

During the February hearings, the subcommittee was given a graphic account of alleged abuse of a female juvenile. To quote from her statement, "I left the Rader Diagnostic and Evaluation Center——"

Senator **Boren**. Has that statement been provided from Tony to the committee?

Mr. G. **Miller**. Yes, it has: There are several others that I have prepared which do appear in the written testimony, and in the interest of time, I will be glad to skip over them if you all desire, knowing that you will review the record.

Senator SPECTER. When you testified about the Tony incident, the records in the possession of the subcommittee prior to the February 11 hearing did contain corroboration from two witnesses, did they not?

Mr. G. MILLER. Yes, Mr. Chairman. But I was a member of the Disciplinary Review Committee, and the investigative report included 15 different versions of what happened.

Senator SPECTER. Fifteen different versions?

Mr. G. MILLER. Fifteen different versions; yes, from various witnesses.

Senator SPECTER. How were you able to reconcile 15 different versions?

Mr. G. MILLER. We just had to go by the preponderance of the evidence. There was no injury also.

Senator SPECTER. The report starts out, in the first paragraph, Mr. P. reported to Mr. L. that he received evidence from Tony B. that superintendent had kicked him in the head on October 23, 1979.

Now, in fact, had Tony B. made complaint that superintendent from N kicked him in the head?

Mr. G. MILLER. Yes, sir, he did.

Senator SPECTER. Now, you are saying at a later time Tony Brown recounted that?

Mr. G. MILLER. Yes, he did.

Senator SPECTER. Did he explain why he earlier made the allegation of having been kicked in the head?

Mr. G. MILLER. Yes. He indicated that it was because of the urging of some of the staff who apparently had a problem with the superintendent.

Senator SPECTER. Some of the staff of the department back in 1979 had a problem with the superintendent and urged him to do that?

Mr. G. MILLER. I think that was his information.

Senator SPECTER. Did you ascertain whether that in fact occurred or, if so, did you take action against the staff?

Mr. G. MILLER. This was a very difficult period at the institution because we were trying to implement new programs and new procedures and some of the staff was quite resistive of the changes.

Senator SPECTER. Well, did you terminate staff as a result of whatever it was that was going on?

Mr. G. MILLER. Yes. There were terminations.

Senator SPECTER. And did you terminate some of the staff who were alleged to have put Tony B. up to this complaint?

Mr. G. MILLER. We never did know who the staff was that allegedly put Tony B. up to this.

Senator SPECTER. Did Tony B. testify or tell you as to who the staff was?

Mr. G. MILLER. No, sir. There was one staff person, I believe, who was identified, a person named Wade, who subsequently was terminated.

Senator SPECTER. Now, Mr. James W., to continue the practice of not using the last name, was a corroborating witness so far as saying Tony B. was kicked in the head; is that correct?

Mr. G. **Miller**. Sir, I don't have the record before me but I am assuming that is correct, yes.

Senator **Boren**. Were you questioned by the subcommittee investigators before the February hearing as to this particular allegation?

Did you give any response or did you make it clear to them that you were on the Disciplinary Review Committee prior to the February hearing and the public hearings?

Mr. G. **Miller**. I have never been questioned by the subcommittee staff.

Senator **Boren**. You were not questioned by the subcommittee staff as to this incident?

Mr. G. **Miller**. Not as to this or any other incident.

Senator **Boren**. You have made available Tony—you have made available his address and where he can be found to the members of the committee staff for further interview?

Mr. G. **Miller**. We think we have provided his complete file. As to his current address, it is sometimes difficult to pin down but I am sure he can be found.

Senator **Specter**. Are you familiar with the facet of the report of August 20, 1980, from the Department of Human Services, records that Mike Z. stated that after the Tony B. incident, all of the persons who testified began to be harassed? After R. was relieved as supervisory of security, he was also relieved of his position as supervision of secuity.

Mr. Z. was changed from day shift to weekends and night shift. Some of the personnel on the shift were incompetent. He was replaced with a YGS who sleeps on duty. This was too much for him.

Mr. G. **Miller**. I am familiar with that report.

Senatos Specter. Did you investigate the charges of harassment that Michael Z. brought to your attention?

Mr. G. **Miller**. Yes. We looked at—we probably looked at that more extensively and exhaustively than any situation we have ever looked at.

Senator **Specter**. And your conclusion was that the allegations by Mike about harassment, therefore changing your testimony, was unsubstantiated or unsupported?

Mr. G. **Miller**. This was very typical of the type of information that was being put out by the employees who were resistive to changes that were being implemented at the time.

Senator **Specter**. Was Mike terminated?

Mr. G. **Miller**. I do not know, sir.

Senator **Specter**. In a report—Mr. M.'s report, there is a notation here, he also indicated that Mr. D. had just talked with him and indicated that perhaps he might want to go home and not be available for the interview.

Was that allegation investigated?

Mr. G. **Miller**. Yes, sir.

Mr. D. that you referred to is one of the witnesses who is present today.

Senator **Specter**. And what was the conclusion, that there was no substance, that Mr. D. indicated that perhaps he might want to go home and not be available for the interview?

Mr. G. MILLER. Mr. Daney, who is here, will be prepared to testify to that point.

Senator SPECTER. I am asking you about your conclusion, Mr. Miller.

Mr. G. MILLER. My conclusion is that statement which I read which was the report of the Disciplinary Review Committee.

Senator BOREN. Was Mr. Daney, who was present, the superintendent?

Mr. G. MILLER. He was the assistant superintendent at the time.

Senator SPECTER. Mr. Miller, do you find this characteristic of investigations where there are as many as two witnesses who corroborate an allegation of kicking in the head and that there are then allegations of interference with an investigation? Does this run through the investigations which you run?

Mr. G. MILLER. I don't think this is a typical situation or a typical investigation. This was a very unusual situation.

Senator SPECTER. You may proceed, Mr. Miller.

Mr. G. MILLER. I am going to skip a great deal of the information that I would have liked to have had time to speak to because I think it is contained in the record or in the statement which was submitted earlier. But I would like to conclude by saying, any time an inquiry, such as this one by the subcommittee, focuses solely on alleged worst cases, a distored image will be conveyed. Here the worst cases not only do not reflect the normal method of operation; many of the cases did not occur as reported. Where there were corroborated instances of poor judgment or misconduct by employees, they were dealt with effectively.

What the subcommittee does not have, and has never sought, are the records of the vast majority of the juveniles at the institutions in question that have been well treated and are benefitting from the rehabilitation and training programs which are offered. The subcommittee has been given a selective and distorted view, and even the selective facts and allegations presented to the subcommittee lose significance when fully analyzed.

There is no real issue to concern this subcommittee or to warrant congressional intrusion into the operation of the Oklahoma juvenile programs. There is no misuse of Federal funds and no pattern of abuse of juveniles. Oklahoma has its share of serious problem children. In dealing with them, there have been a few cases of over-reaction. Each verified case of over-reaction or misconduct was dealt with firmly.

No one familiar with the Oklahoma juvenile programs could conclude that impermissible conduct has been encouraged.

Mr. Chairman, I would also like to call your attention to the fact that we do have the Inspector General of the department here today who would like to be heard and would respond to one of the allegations which I did not cover, along with Mr. James Brown, the chief of security, who has two matters which were brought before the committee yesterday which he is prepared to speak to.

Senator SPECTER. Mr. Miller, are you aware when you just talked about the focus on worst cases, that there had been testimony that staff counsel reviewed some 700 cases and found the specific instances to be typical?

Mr. G. MILLER. I have heard that testimony and I question that statement because what was said in the record were allegations and they were not confirmed cases.

Senator SPECTER. Would you say that a sampling of 700 cases in your professional judgment is a focus on worst cases or isn't that a pretty accurate sampling of a pattern of conduct?

Mr. G. MILLER. I do not think it was an accurate sampling. We do have testimony which we are prepared to present today which would verify that. Mr. David Shafer is prepared to speak to that.

Senator SPECTER. You are not saying that some 700 cases are a selection of worst cases, are you?

Mr. G. MILLER. No, we are not saying that, absolutely not.

Senator SPECTER. When you assert here that many did not occur as reported, that may be your view, but on quite a number of the cases we pursued, as illustrated by Senator Nickles, your conclusions may not necessarily be correct.

Mr. G. MILLER. Sir, what we are saying is that many of the things that were reported were allegations and when the total information is viewed, the allegation was not sustained; there was no corroborating evidence.

Senator SPECTER. When you make a reference to an intrusion by the Congress, I would respectfully say to you, Mr. Miller, that the congressional action is something that will have to be decided by the Congress, with all due respect, and not with you, sir.

Mr. G. MILLER. I would concur with that statement. I have very great respect for the Congress.

Senator SPECTER. It is just a little bit unusual to have a conclusion from a witness about a congressional intrusion. That is a matter for the Congress to submit, not this subcommittee, not this Senator, not these Senators, but for the Congress to decide.

Mr. G. MILLER. I agree with that 100 percent. I simply feel I had a right to express an opinion.

Senator SPECTER. That is what I intend to ascertain, what your opinion is. If you think there has been a congressional intrusion——

Mr. G. MILLER. Yes, sir, I do.

Senator SPECTER. Mr. Miller, isn't it true that there has recently been some action taken by the Oklahoma House of Representatives and the Oklahoma Senate which makes some pretty fundamental changes in the way that you treat deprived children?

Mr. G. MILLER. Yes, sir. We are very happy to report that is true. We are happy that the principal author of that legislation is present today in this room and is available and would hope to make a statement to the committee on that legislation, which is now on the desk of the Governor.

Senator SPECTER. And that the action which has been taken within the past week by the State Senate now provides that a deprived child may not be placed in an institution operated by the department?

Mr. G. MILLER. Yes, sir. We concur with it and agree with it and supported it.

Senator SPECTER. And further that the new law provides that the public policy of the State is to render adequate and appropriate care for any child, to allow for a least-restrictive method of treatment consistent with the treatment needs of the child?

Mr. G. MILLER. Yes, sir. We embrace that principle.

Senator SPECTER. And do you think that the action of this subcommittee has had anything to do with the recent passage by both the House and Senate of those provisions?

Mr. G. MILLER. If it has, sir, we would express our appreciation to you because we very fully endorse and embrace the principles set out in that legislation.

Senator SPECTER. Are you expressing that appreciation?

Mr. G. MILLER. Yes, sir, I am.

Senator SPECTER. Thank you.

Senator NICKLES. I do have a couple of followup questions.

There are a couple of instances that I would like to know more about a couple of employees, but I am also looking at the clock. I know Mr. Rader and others have not had a chance to respond to some questions. Would you care for me to proceed or come back to the issue later?

Senator SPECTER. Senator, I would never cut off your line of questioning. I think you have to be the judge of it.

Senator NICKLES. Quickly, I will mention two items. One that concerns me a great deal is an employee I will call Mr. C. who was involved in an alleged sex offense with a young man from Helena.

Are you familiar with that?

Mr. G. MILLER. Yes, I am, sir.

Senator SPECTER. I was reviewing the case. I see that this is the incident that occurred in January 1980. It wasn't reported until March 1980. It involved a State employee having oral sex with a youngster on a boxing trip and this happened in Kay County.

Mr. G. MILLER. We apologize for that, Senator Nickles.

Senator NICKLES. The fact is that it happened in January and was reported in April. I see that the State employee did not pass the lie detector test. He was terminated in August 1980, which I would say is too far past April when the incident arose. Four months is too long for action to occur following such breaches of coduct.

I don't understand why he was reinstated in October 1980, only 2 months later. I don't know if he was continuing to receive pay during that period of time, but then I see he was reinstated in October 1980. I understand he was terminated again in February of this year after publicity was generated by these investigations.

Was he terminated or was he "allowed to retire"?

Mr. G. MILLER. He was actually terminated, Senator Nickles. Superintendent Daney of the D&E center is here today. He is prepared to discuss fully that termination. It was the second termination that I am referring to.

Senator NICKLES. So he was terminated twice?

Mr. G. MILLER. He has been terminated twice. He appealed twice.

Senator NICKLES. What is the status of the second appeal?

Mr. G. MILLER. We, as of last night, we have not received any official communication from the State merit system in regard to the findings of the hearing officer. The hearing has been held.

Senator NICKLES. We contacted the merit board. It is my understanding he is to be reinstated again.

Mr. G. MILLER. I would not be surprised.

Senator NICKLES. That appalls me, to think that we have a State merit board that would decide that he should be reinstated. This individual is guilty of a felony, of having sex with a minor. This was committed on a State trip, and the merit board decided to have him at once be fired, to have him reinstated, to have him fired, and finally to have him reinstated, again. I think that is abhorrent.

Has the State appealed his reinstatement?

Mr. G. MILLER. No, sir, because in the hearing it was the testimony of one juvenile witness against an adult and the hearing officer in his findings felt that the evidence was not sufficient to sustain the charge and they would not allow the introduction of the polygraph evidence and, based on that, our legal division researched the case and said this is the evidence; we cannot be sustained in district court.

Senator NICKLES. Now it comes back and evidently he is going to be reinstated.

Are you going to appeal that reinstatement?

Mr. G. MILLER. I am sure that is a matter that will come under close scrutiny of our legal division. I have no idea what the recommendation will be. If you are asking me personally, I would hope we recommend we do.

Senator NICKLES. Did you ever turn these criminal findings over to the district attorney for prosecution in this case?

Mr. G. MILLER. I believe, Senator Nickles, and I am really trying to recall, I believe that it was.

Senator NICKLES. I would appreciate your finding out. I see some heads shaking in the audience yes and no. I would like to know because it is a very serious offense. If it wasn't reported, it shows definite mismanagement by the department.

Mr. G. MILLER. My recall is that it has been referred to the district attorney and he has been considering the information and trying to decide how to proceed.

Senator NICKLES. I am not trying to criticize the department, but when I see cases like Mr. C., that I brought up before, in which serious cases of physical abuse or crimes have occurred and then see that employee still on the payroll almost a year after the event occurred, I am disturbed. This occurred two or three times. It tells me that we need to have some type of change in the administration. I would say your rules are fine but it has something to do with the way they are being administered.

In Mr. A's case, which is at Taft, I found that Mr. A had a very bad criminal record, one that dealt with sex offenses in California. Is that correct?

Mr. G. MILLER. Senator Nickles, I do not know whether that is correct. We do have the inspector general of the department here who is very familiar with that situation and can answer your question directly.

Senator NICKLES. I think you are familiar enough with it to know how to answer this question.

Mr. G. MILLER. I do not know about his criminal record.

Senator **Nickles**. The evidence will show that the case is quite clear. This case has been all over the newspapers, that this employee does have a criminal record. He was employed at Taft and was made a security officer. We have had reports that he was also involved in selling drugs. Incidentally, I will mention that two of the youngsters who testified yesterday said that they didn't think he was. They said they thought a lot of other people were involved in drug selling at Taft but not necessarily this particular individual. However, this individual didn't pass a polygraph, resulting in his termination. Do you remember when he was terminated?

Mr. G. **Miller**. No, sir, I don't.

Senator Nickles. The allegations were made that he has been selling drugs, since September 1981. A letter reflected this in November. He took a polygraph in December and was terminated on February 8, 1982.

Mr. G. **Miller**. Well, as I recall the situation there, Senator Nickles, which I alluded to earlier, there was ongoing investigation which involved the local law enforcement and the Tulsa police department shows that. An effort was being made to make a good case against a number of people, if these allegations could be confirmed. There was an unfortunate revelation of the situation prior to the time the investigation was completed, so we were aware of those allegations and there was an undercover investigation taking place in an effort to try to determine if there was a drug ring involved with the students, or prostitution.

Senator **Nickles**. There were allegations that this employee was involved in both, soliciting for prostitution and also selling drugs. These allegations were made some time previous to our investigation. He was eventually terminated on February 8 of this year.

Is he currently an employee? Has he been reinstated, to your knowledge?

Mr. G. **Miller**. As I recall, and I am operating strictly from memory, I believe he did appear and I believe he was reinstated by the personnel board action.

Senator **Nickles**. My record indicates he has and was reinstated on April 22. He was made a security guard at one of the institutions. I cannot believe that the merit board would be so automatic. Did you appeal that decision?

Mr. G. **Miller**. It has not been appealed to the district court for the same reason I expressed earlier.

Senator **Nickles**. You did not appeal it to the merit board. Did this individual fail a polygraph? He was accused of selling drugs. I don't know if he is guilty. I am not trying to make a judgment. I am trying to say I think the department is wrong if you terminate him and then move him over to another institution, which also deals with young children. Did you allow that type of individual to be a security guard at Taft?

Mr. G. **Miller**. Senator Nickles, the information concerning a polygraph could not be used as evidence and the evidence by witnesses that we were able to present was not sufficient to sustain that allegation and we faced the same dilemma.

Here we are, by an order, by an outside agency, over which we have no outside control, ordered to reinstate an employee. We are faced with, what do we do with an employee who should not properly be on the State payroll, but here we are.

Senator NICKLES. I see Senator Stipe is in the room. I welcome him. I know he has a great deal of influence and prestige in the legislature. I am sure with his help we can make some changes in the merit statutes to get rid of some employees that we feel should not be employed.

Mr. G. MILLER. I will talk to Senator Stipe again about that, sir.

Senator NICKLES. I have no further questions.

Senator SPECTER. Senator Boren must depart momentarily.

Senator BOREN. I apologize. I will return. I have a prescheduled meeting that is supposed to only last 15 minutes and I will return.

You mentioned a while ago that changes were in the works on the Juvenile Code and that the author is present.

Who is that?

Mr. G. MILLER. That is Representative Don McCorkell.

Senator BOREN. Is he available to the committee?

Mr. G. MILLER. Yes. And he is eager and anxious to relate that information to the committee.

Senator BOREN. I would only say that I hope later one of the things that I would like to question you about, when I return, and I give this as advance notice, is that a strong impression has been given that a vast percentage, something like a three-fourths or two-thirds of the juveniles which are served by the department, end up in institutions; I heard Mr. Baumberger say a while ago that 95 percent did not. Of course, our focus here is to determine proper programs and policies. We are not a court. We are not set up to be a court, we cannot try individual cases. We can't determine all these individual cases, and in any State system there are going to be individual employees who do not do right. I agree with Senator Nickles that, frankly, action should have been taken sooner, and I hope action may mean immediate suspension of people so they will not have any contact with the children.

What we have to look at here is the system as opposed to a few rotten apples that might be employees. That is one improvement the State could make, immediate suspension pending investigation.

But I am very concerned here. I know for a fact that the restitution program—because I happened to work on it at its inception—is an alternative to institutionalization. I know group homes are alternatives. I know both directly operated by the State and under contract with youth shelters and others.

I would want to ask when I return about the alternatives that apparently are being further encouraged in Representative McCorkell's bill for institutionalization. I have a feeling that we should try to find alternatives and I think reading between the lines, that this is a feeling held by other members of this committee.

When I return, I want to question you on that because we have to draw a sharp distinction between policies and individual cases. How many employees are there in the department?

Mr. G. MILLER. Approximately 14,000.

Senator BOREN. 14,000. We have heard—I don't know how many, 15 cases or 20 or 25 out of 14,000 that are supposedly not behaving as they should. We have seen some procedural problems that are systematic. I would be quick to say that as well.

But I think what I would be most interested in focusing upon, constructive suggestions, as to how we change the system. How do we come up with alternatives? We cannot do anything in this Committee to remove a State employee. We are not district attorneys. We cannot file charges. What we can hopefully do is implement some standards that could become accepted everywhere in terms of systems for treating children. I hope we can focus on that. I apologize for having to briefly leave.

Mr. G. MILLER. We look forward to that. We would also like for you to know, we routinely are suspending employees immediately on any kind of allegation.

[The prepared statement of Mr. George Miller follows:]

THE PREPARED STATEMENT OF GEORGE MILLER

We are proud of our programs in Oklahoma for the care and treatment of children. These programs are widely regarded and copied. Certainly, abuse is not "pervasive" or tolerated, as has been alleged.

In February we were "blind-sided" by the extreme and inaccurate allegations broadcast by this Subcommittee and at the same time widely circulated by the Gannett News Service in Oklahoma. Certainly, we had no reason to expect a coordinated attack from several sources without a fair opportunity for us to prepare and respond.

When it became clear that we were under attack, our first response was to propose to Governor George Nigh that the Oklahoma State Bureau of Investigation thoroughly investigate every allegation. This law enforcement body with the assignment of forty trained agents has exhaustively investigated every allegation, and information available to us indicates that the OSBI has found no support for the allegations pertaining to the juvenile programs operated by the Department.

Our next step in response to these allegations was to conduct our own research on each allegation. This process was begun on February 13, 1982, in a meeting between Department officials and our legal counsel. For the next three weeks I did little else and on March 5 we delivered to the Subcommittee a detailed written reply and a large volume of documents on which our report was based. Much of my statement today is taken from that memorandum of March 5. Additionally, I will respond to the specific allegations made yesterday. Our ability to respond to yesterday's allegations is, of course, limited by the Subcommittee's refusal to give the Department advance information on the substance of the allegations. At most, we have had about twenty hours to research the allegations in Oklahoma, receive the information in Washington, and prepare our response.

As Dr. Ted Baumberger will explain in more detail, the juveniles in Oklahoma juvenile institutions are not simply docile youth who have been abandoned or orphaned. Rather, they represent the most serious behavioral and emotional problems among the under age population in Oklahoma. Misbehavior and defiance of authority are therefore an inherent aspect of these facilities. The residents are prone to serious and violent criminal activity. Not long ago, a 56 year old laundry employee in one facility was raped and murdered by a male resident.

Running these facilities is not like running a public school, and the Department does not delude itself into thinking they are the same. The operation of these facilities must be judged in this context.

Notwithstanding all of this, the Department still has strict rules, which it enforces, that govern the way its employees deal with the residents of these facilities. Employees are not free to run rampant, to engage in excessive use of force or exploitation of the residents, to take personal advantage of them or to engage in intimacies with them.

The statements to this Subcommittee in February involve allegations that these rules have been violated. Far from showing that the alleged conduct was accepted or condoned, the full record in each case confirms (1) that mechanisms are in place to enforce Department policy prohibiting mistreatment; (2) that youth have ready access to advocates and do use the opportunity to complain about conditions or treatment; (3) that all allegations of abuse are promptly investigated; (4) that serious allegations are immediately brought to the attention of senior Department officials; and (5) that when misconduct is confirmed appropriate action is taken against the offending employee.

The juvenile case files dramatically illustrate the range and nature of problems and circumstances which occur on a daily basis in the Department's juvenile programs, the efforts of employees to avoid confrontation in compliance with Department policy, and the use of special "crisis teams" at facilities where professional intervention is believed necessary to minimize the possibility of violent student behavior.

DOLORES B.

We begin our specific response this morning by considering the allegations attributed to a juvenile identified as Delores B. It was alleged to the Subcommittee back in February that Delores B. was simply a deprived juvenile, who was not institutionalized because of any antisocial behavior. Since the Subcommittee apparently believed that the background of this juvenile was pertinent, we feel it necessary to explain the reasons for her being placed in the institution.

She was adjudicated In Need of Supervision at the age of 16 because of repeated truancy and failure to participate in the counseling program for runaways. Her record further reveals, however, that she had been living with a boy friend who had a record of violent crime. She also attacked and injured her stepfather with a knife. She was placed in the custody of the Department after being terminated from a Job Corps position to which she had been assigned after being adjudicated INS. The Department first assigned her to a community shelter but she went AWOL within twenty-four hours. She was subsequently arrested at her mother's home after being charged with threatening her with a knife in order to obtain money. It was only then that she was placed in one of the non-delinquent juvenile institutions.

It was reported to the Senate Subcommittee that Delores B. alleged she was fondled by a superintendent and by the staff dentist at the Rader Center. Herschell Daney, who is the superintendent at the L. E. Rader Diagnostic and Evaluation Center, is here to respond to that allegaion.

(STATEMENT BY HERSCHELL DANEY)

With respect to the allegations against the dentist, on February 25 Delores B. called me at the State Office. Let me read to you from the record of that call:

> Memo from David Shafer, ACA Standards Manager, subject: Telephone conversation with Delores B. On this date I monitored a telephone conversation between Delores B., former custody child, and George Miller, Secretary to the Director. Ms. B. opened the conversation by stating, "What do you want my records for?" Secretary Miller replied that we do not want her records, that we have the records and wanted to know if she is desirous of releasing them to the news media. Ms. B. replied emphatically that she did not want her records made public. She indicated that she was already unhappy with "a lot of things already made public that I didn't like." She said that many of the things that had been said were wrong. She stated that she had talked to Bill Treanor with the understanding that her statements were to be used in court. She said she did not give him permission to release her story publicly. Secretary Miller asked her if she had told Mr. Treanor about the dentist "feeling her up" . . . She replied that she had said "the dentist messed up my teeth."

We note that the allegations are not reflected in any Department record. The established policy is that no dentist sees a patient alone at the Rader Center. A female dental assistant is present at all times. This has been confirmed by a sworn statement by the dental assistant.

Delores B. also complained of being strip-searched. It is the policy at the Rader Center to undertake body searches when there is strong suspicion that the juvenile is carrying contraband. Any search requiring disrobing or "patting down" must be reported in writing to the supervisor with a copy given to the student. That policy is enforced. The so-called second strip search alleged by Delores B. may refer to the requirement at the Rader Center that incoming residents to a residential cottage must shower and use medicated shampoo. This accepted hygienic procedure involves no violation of personal privacy.

Another charge by Delores B. was that the Rader facility did not adequately attend to a deaf student who exhibited self-destructive tendencies. The Rader Center has both a board certified psychologist and a deaf interpreter on staff as well as a full time medical staff including a board certified psychiatrist, and there is simply no basis for such a charge of neglect.

Dolores' story, which we believe is a complete fabrication, goes on to allege that Dolores assisted the deaf juvenile who had injured herself, and that Dolores was as a result punished for tearing a sheet to use as a bandage. Every matter of discipline at the Rader Center is documented and recorded in the juvenile's case file. There is no record of any discipline as alleged by Delores. The entire episode did not occur; Delores' story is a classic and sad example of fabrication by a problem juvenile seeking attention.

Incidentally, there is now one deaf juvenile at the Rader Center. A full-time deaf interpreter on staff works with this one juvenile. This particular juvenile has a very long history of behavioral problems, but the Center is working now to identify an appropriate program of care and treatment.

Ronnell H. and Dewayne [redacted]C.

One alleged homosexual incident was presented to the Subcommittee in February, and has been the subject of very sensational reporting by certain news media in Oklahoma.

Ronnel H. was adjudicated delinquent on January 20, 1978, for larceny and breaking and entering. He was placed at Boley State School for Boys on April 5, 1978, and paroled on September 2, 1978. His parole was revoked on November 27, 1978, for truancy, robbery by force, and assault. Department records indicate that he was transferred to Helena State School on February 11, 1980, was reported to be AWOL from special leave on October 13, 1980, and was jailed in Tulsa County for automobile theft and armed robbery on April 14, 1981.

In April 1980, a juvenile resident of Boley, reported observing Dewayne [redacted], a Boley social worker, commit oral sodomy on the unresisting Ronnell H. The incident was reportedly also witnessed by a second juvenile, and was alleged to have occurred on February 23, 1980, two months before any report of the incident. A formal investigation was initiated by the Department's Bureau of Institutions and Community Services on April 23, and [redacted] was relieved of duty pending results of the investigation. A detailed report was submitted to the State Office and to the Oklahoma State Bureau of Investigation by William T. Saxton of the Department's Internal Investigation Unit on April 28.

A polygraph examination of [redacted] was conducted on May 15 by the Oklahoma State Bureau of Investigation, and the examination indicated "strong and consistent positive deception." A polygraph examination of the juvenile indicated that his statement that [redacted] had performed oral sodomy was truthful. [redacted] was terminated on July 31, 1980, because of "misconduct and conduct unbecoming a public employee and . . . a homosexual act with a student."

The Subcommittee was told of the acts allegedly committed by [redacted], but was told nothing about the Department's response. As can be seen, even though the incident was reported two months after it allegedly occurred, the Department acted quickly, a thorough investigation was made, and appropriate and decisive disciplinary action was taken. No one familiar with these facts could fairly suggest that the Department in any way condoned the conduct involved.

Unfortunately, the story does not end at this point. [redacted] appealed his dismissal and several months later the State's Personnel Review Board found him innocent of the charges, and ordered him reinstated to his original position at Boley. This illustrates the difficulty faced by the Department in terminating classified employees and dealing with the State's civil service system. Chase Gordon, the Department's Deputy General Counsel, will comment on the State's personnel review process.

(STATEMENT BY R. CHASE GORDON)

After [redacted] return to work and with his consent, he was transferred from Boley to Rader Diagnostic, Evaluation and Treatment Center at Sand Springs because of his inability to "function effectively" at Boley as a result of the homosexual allegations. The transfer was effective December 8, 1980. [redacted] was again terminated on February 9, 1982. He was terminated at this time on the recommendation of his supervisor, Mr. Daney, the superintendent of the institution. Mr. Daney can explain this second termination.

(STATEMENT BY HERSCHELL DANEY)

On this particular allegation, the Subcommittee was left with the impression the Department had done nothing about this incident until it was "exposed" in recent newspaper reports. It should now be apparent that this is a completely misleading impression. The Department acted with dispatch and took severe disciplinary action. Although the employee was reinstated by the State's civil service system, he did not remain on the Boley staff. His later termination was based on subsequent misconduct and performance failures that were unrelated to any allegations of abuse of residents.

THE OKLAHOMA CHILDREN'S CENTER INVESTIGATION

The Subcommittee in February was also given a very distorted and misleading report on conditions at the Oklahoma Children's Center at Taft, Oklahoma, and the Department's efforts to investigate and respond to these circumstances.

The Oklahoma Children's Center ("OCC") is located in Taft, Oklahoma, a small economically-depressed community approximately eleven miles from Muskogee. The community has no local law enforcement. Department officials became aware in 1977 that drugs were freely available on or around the OCC campus, and there was evidence that some individuals in the area were preying on girls at the Center for sexual purposes. As a result of steps initiated by the State Office, in cooperation with Muskogee County law enforcement officials, and as a direct result of work by Jack Campbell (OCC Superintendent from November 1977 until late 1979) the problems were brought under control in early 1978. According to Campbell and other State Officials, the potential for serious problems has existed and will continue to exist at OCC, because of its environment, and periodically, new initiatives have to be taken by State Officials to retain control of the situation.

On September 18, 1981, OCC Superintendent, Wilbur Williams, requested assistance from the State Office in dealing with the problem of "a part of the male population of Taft . . . assisting in harboring our female student population and in some cases utilizing them for sexual purposes." Williams' primary concern was unauthorized entry onto the campus by persons supplying drugs and attempting to take young women away from the Center. Williams' request was received on Monday, September 21, 1981, by the Department's Inspector General, Charles L. Garrett. On Tuesday, September 22, investigators from the Office of the Inspector General ("OIG") met with the Muskogee County Sheriff. The investigation went forward from that date and by mid-October, much of the immediate problem had been abated.

On October 16, 1981, Department officials, including Lloyd Rader, Charles Garrett, and Wesley Rucker, Supervisor of Institutional Services, met with Mike Turpen, District Attorney for Muskogee County. The purpose of the meeting was to involve the District Attorney in prosecuting individuals, which the investigation had linked to various juvenile-related crimes in and around OCC. In cooperation with the District Attorney, and his office, the investigation continued and by January, it became apparent that the investigative trail might lead to information on criminal activity involving individuals in Tulsa and other parts of the State. In late January, Department and law enforcement officials involved in the investigation began to consider using undercover agents in Taft, and possibly in Tulsa.

As a result of the investigations, two Taft residents, not employed by the Department, have been charged with sex-related offenses. Additionally, two OCC employees were terminated. Nathan [redacted] was terminated for soliciting female residents for prostitution; and Gary [redacted] was terminated on suspicion of supplying and dealing with drugs. In order to preserve the confidentiality of the on-going investigation, these terminations were delayed. The employees were promptly terminated after publicity aborted the investigation. At this point, it should be noted that both of these employees had appeal hearings before the State's Personnel Review Board; both were found innocent of the charges and both were ordered reinstated. They have been reinstated and assigned to non-child care positions.

Charles Garret, the Department's Inspector General, has a statement he would like to enter at this time.

(STATEMENT BY CHARLES GARRETT)

To summarize, promptly after receiving information from the OCC Superintendent that the drug and prostitution problems at the Center were out of control, the State Office provided enforcement assistance, initiated a major investigation, involved local law enforcement officials, and discharged two employees thought to be involved in illegal activity.

The investigation was only one aspect of the Department's effort to deal with an admittedly serious problem at OCC. The budgeted security force at OCC has been tripled since September 1981, a new Chief of Security with 20 years experience in law enforcement has been hired, and new security procedures have been implemented. Security facilities (fencing, locks, etc.) have also been significantly upgraded, primarily for the purpose of keeping unauthorized persons off the campus. A new employee screening procedure has been adopted at OCC which involves a fingerprint check through local and federal law enforcement agencies. Every new employee agrees to conditional employment pending a report on his fingerprints. Admittedly, OCC presents a very difficult situation which has been a concern for the Department for many years.

TONY B.

The allegations regarding an incident in October 1979 involving a resident of Helena State School for Boys, identified as Tony B., were widely publicized by the news media. In this matter it was alleged that Helena Superintendent Tom Norwood kicked Tony B. in the head. Three facts should dispose of this allegation: (1) medical examination by a nurse at the institution immediately after the incident found no evidence of bruise or other injury indicating Tony B. had been kicked in the head; (2) perhaps no other incident of alleged abuse has been as thoroughly and exhaustively investigated by the Department as this particular one; and (3) since the incident has been publicized, Tony B. has personally stated that he was not kicked or injured in the alleged incident.

It has been alleged that the investigation of this incident was obstructed by the Assistant Superintendent at Helena. Mr. Herschell Daney was the Assistant Superintendent at Helena at the time. I would like to ask him to respond to this point.

(STATEMENT BY HERSCHELL DANEY)

Tony B. was adjudicated delinquent on September 13, 1976, based on a burglary charge. He was paroled from Boley State School on May 24, 1977, but was returned to Boley on June 22, 1978, for assaulting a police officer. He was placed at Helena in June 1979 after being charged with unauthorized use of a motor vehicle.

On October 23, 1979, Tony returned from a home visit heavily under the influence of alcohol. He was apparently distressed because of the attentions of a girl friend to another male. Tony attacked another student and knocked a recreation worker to the floor. Tony threatened to kill the student and was escorted to a residential cottage where he became violent and began overturning furniture. He was placed in detention in another building where he attempted to slash his wrists and to hang himself with a bedsheet. After the two suicide attempts, he was placed in restraints. The juvenile's misconduct was so extreme and continuous that both the Helena superintendent and a local law enforcement officer were summoned.

Upon his release from detention, Tony complained to the Advocate Defender that while he was restrained, he had been kicked on the right side of his head and neck by Helena Superintendent Thomas Norwood. The only injuries identified in a physical examination by the school nurse, however, were a small scratch on his neck just below the right ear and several visible scratch marks on his left wrist.

In a signed statement dated October 25, 1979, Norwood stated he had attempted to "hold him down with my knee and hands to prevent him from injury. My knee was placed on his shoulder. At no time did I or any staff attempt to strike or injure student in any way." The matter was extensively investigated and testimony of persons reportedly at the scene of the incident conflicted. The matter was referred to the Department's Disciplinary Review Committee which convened on November 8, 1979, approximately two weeks after the incident and one week after the conclusion of the investigation. The Committee determined:

> The allegation of inappropriate handling was not sustained by the facts. The conduct of the Superintendent does not amount to abuse of a juvenile. That no injury occurred as a result of any action that he took. That no evidence was received which sustained that adverse personnel action should be taken. That although physical contact with the student occurred at the time, there was no evidence of any intent on the part of the Superintendent to harm or injure the juvenile.

The Review Committee observed that it had been given fifteen different versions of the event by various participants and alleged witnesses.

Tony B. is now living in the Oklahoma City area. Following recent news media publicity related to the incident, Tony B. met with Norwood and reported that he had been solicited at the time of the incident by employees to make trouble for Superintendent Norwood. He also stated that the news media stories were not correct. He subsequently appeared voluntarily on television in Oklahoma City to state, in effect, that Norwood's account of the incident was correct.

It is unfortunate that the Subcommittee was not given the full account of this incident as reflected in the Department's records, including the facts showing the rapid and thorough investigation by the Department. Indeed, had the Subcommittee investigators interviewed Tony B. their testimony would most certainly have been very different. The now complete account of this incident demonstrates that the response of the institution to Brown's severe provocation was appropriate and raised no issue of abuse or brutality.

Michael E.

At its first hearing the Subcommittee heard testimony from its investigator alleging that a juvenile suffered a broken arm while being assaulted by two members of the security staff for refusing to go to bed. The Subcommittee was also told that the juvenile, Michael E., was not institutionalized for antisocial or violent conduct. State records indicate, however, that Michael E. was removed from four different foster homes over a period of several months because of disciplinary problems. His case file indicates a continuing history of violent and aggressive conduct including assault with a weapon, threatening violence, and fighting.

Michael E. was admitted to the Diagnostic and Evaluation Center on July 1, 1980. The evaluation there recommended that for future placement he needed more structure than foster care could provide since he refused counseling or testing. As a result, he was placed at Whitaker State Home on August 18, 1980. The incident reported to the Subcommittee occurred on March 5, 1981. The incident report indicates that the houseparent contacted security stating that she was having considerable difficulty and requested the security staff to come to the cottage to provide her with assistance. She stated she was having trouble with Mike and another student. Mike had been talking about doing physical harm to himself, threatening to hang himself with a belt. Two security officers took Mike to the Crisis Management Cottage in an effort to get him settled down. On the way a struggle occurred. During the struggle both officers wrestled Mike to the ground to gain control. Mike later complained of pain in his arm and was put to bed with a heating pad and tylenol. On the following day Mike again complained of pain in his arm. An x-ray examination was inconclusive and he was referred to the Orthopedic Clinic in Tulsa for examination by an orthopedist. The clinic report indicated a possible fracture, but recommended a sling for immobilizing the arm and recommended a return appointment for x-ray. On March 11, 1981 he was again x-rayed. The diagnosis was "no fracture."

Because of allegations of inappropriate handling of a juvenile a referral was made to the State Office for full investigation by the Inspector General. The investigative report was then forwarded to the District Attorney. The District Attorney failed to find sufficient evidence on which to press any charges. However, based on a number of complaints involving allegations of excessive force the two security guards were terminated in January 1982. The Subcommittee testimony was misleading to the extent it gave the impression that the two security guards were not held accountable for their use of excessive force in subduing the violent Michael E.

KAREN W.

During the February hearings, the Committee was given a graphic account of alleged abuse of a female juvenile: "I left the Rader Diagnostic and Evaluation Center in January of 1976. They shipped me to Whitaker. They didn't tell me where I was going until they had me in the car, and handcuffed at that. They were on very tight. They cut my wrist, I still have the scar." Much was made of this allegation and the Subcommittee investigator testified that he had personally observed the scar. The fact is, however, that medical records show that the scar was on this juvenile's wrist when she was admitted to the State facility.

Karen W. was adjudicated In Need of Supervision at the age of 16 after being arrested for theft. The petition alleged truancy and petty larceny, and described her as a runaway, beyond control, and a compulsive liar. Her record indicates that she was sexually active and that she claimed to be "possessed of devils."

Another of the allegations read to the Subcommittee from this juvenile's statement referred to "banging her head while in detention." The juvenile's record indicates that she admitted to using such behavior deliberately to gain attention and to get her way.

DONNIE B. AND TAFT [redacted] F.

The Subcommittee was told of a Boley State School staff member's handling of a student named Donnie B.

Donnie B. first became a ward of the court in April 1972 on a "beyond control" petition filed by his mother. He was released to his mother's custody after two months, but was again put in the custody of the Department as a child "In Need of Supervision" in October, 1976. He was again released to his mother in August 1977, but four months later was returned to State custody. He was transferred to Boley State School for Boys in October 1978. Six months later he was again released to his mother's custody, but in July 1981 was adjudicated Delinquent based upon burglary and grand larceny charges, and sent to Helena.

While at Boley, Donnie reported to the Advocate Defender that on June 24, 1979, Youth Guidance Specialist Taft [redacted] had forcibly taken him from his cubicle following a shower and proceeded to kick, choke and slam him to the floor. Based upon the report from the Advocate Defender, Institutional Services Supervisor David Shafer stated that the allegations "have been substantiated in writing by the other Youth Guidance Specialist on duty." A detailed investigation was conducted by Advocate General John Leitka and on July 3, nine days after the incident, Shafer recommended to L. E. Rader that Taft [redacted] be terminated. The termination recommendation was based upon a conclusion that [redacted] conduct with respect to Donnie was in "direct violation of the Department's policy on child care," that [redacted] had previously been the subject of abuse allegations, had been previously reprimanded, and had been on one prior occasion referred for disciplinary review. Forshee was immediately thereafter relieved of duty, and on August 28, was reassigned to a State roofing crew.

The Department is no more pleased than the Subcommittee with the account of the employee's handling of Donnie. But the Subcommittee would have been better served had it also been told of the immediate action of the Department to suspend the employee and then to reassign him away from any youth care responsibilities. The response emphasizes the Department's strong policy against unnecessary use of force on residents and its determination to take appropriate disciplinary action whenever that policy is violated.

JAMES [redacted] W.

The Subcommittee received information from the Department on an incident publicized by Gannett involving Helena State School student Angelo S. and employee James [redacted]

Angelo S. was committed to the custody of the Department on October 14, 1979, with a record including grand larceny, public drunkenness and burglary. Shortly after being placed at the Helena State School for Boys in January 1980, he attacked another person at the school causing injury. In July 1980, he was found in the possession of contraband drugs.

Robert J. was adjudicated a delinquent on November 20, 1979, and placed at Helena. During his first year at the school he was involved in 25 reports of "assaultive behavior."

James [redacted] was employed at the Helena State School for Boys on April 20, 1979, as a security officer. On May 12, 1980, Robert J. was placed in restraints by Security Officer Dave Southerland while the student was held by [redacted]. Although Southerland reported that he placed the cuffs on Robert J. correctly, [redacted] subsequently tightened the cuffs. Robert J. complained and Southerland asked [redacted] to loosen the wrist restraints. [redacted] did not loosen the cuffs for approximately sixty minutes. Southerland reported to Robert Lamont, Advocate Defender at Helena, that he believed [redacted] had used excessive force. Helena's superintendent, Thomas Norwood, was advised of the incident and reportedly instructed [redacted] not to use excessive force of this nature. The records indicate that Robert J. had struck [redacted] in the course of being restrained.

On May 14, 1980, [redacted] was involved in an incident involving Angelo S. who was reportedly violent and "out-of-control." Leather restraints were used. He twice chewed through the leather restraints, and once free began beating on the door, tearing up bed clothing and the mattress, and attempting to destroy bathroom fixtures and flood the room. At this point [redacted] proposed using chains, and reportedly went off campus to get the chains. All employees involved in the incident were reprimanded by Superintendent Norwood and instructed that chains were not to be used as restraints and were not allowed on campus.

Based upon incidents involving Angelo and Robert, and a third incident during the same month, Superintendent Norwood recommended that [redacted] be terminated for repeated use of excessive force. Before the termination recommendation was acted upon, [redacted] was transferred to Rader Diagnostic, Evaluation and Treatment Center, and approximately two weeks after the transfer resigned from the Department.

This brief account should be sufficient to indicate the provocation by the residents and the need for a strong defensive response. [redacted] himself was no stranger to violent student behavior. Personnel records indicate that on June 30, 1979, [redacted] was injured by a student who struck him with a pipe causing injuries to his knees, arms, and back. Nevertheless, the actions of the employee seemed to go beyond what was necessary to deal with the situation. As a result, the Department acted responsibly and pomptly. Although one incident of over-tightening wrist restraints would probably not be cause for terminating a security officer, a series of two or three incidents demonstrating [redacted] unwillingness to refrain from using excessive force or improper equipment in restraining juveniles prompted Superintendent Norwood to recommend termination. Within thirty days after the Robert J. and Angelo S. incidents, [redacted] resigned with knowledge of the pending termination decision. A resignation, unlike a forced termination, cannot be appealed to the State's Personnel Review Board and in many cases is a preferable result.

While the excessive use of force anytime is unfortunate, the foregoing account should assure the Subcommittee that even under extenuating circumstances the Department does not permit or condone violation of its policy.

GEORGE [redacted] P.

The Subcommittee has also received, at its request, all information regarding employee George [redacted] [redacted] was employed as a house parent at Whitaker State Children's Home on January 11, 1977. During his first six months of employment, [redacted] was repeatedly counseled and cautioned about conduct not in compliance with the rules and policy of the Department. In particular, he was accused of using corporal punishment, although no resident over ever complained of mistreatment requiring medical attention.

From August to December 1977, [redacted] conduct was apparently acceptable. In December 1977, [redacted] conduct was apparently acceptable. In December 1977 and February 1978, however, several incidents of corporal punishment or mistreatment were reported. He was again reprimanded and counseled by his supervisor. In November 1978, based upon performance from May 1978, [redacted] was given a favorable evaluation by his superiors.

In late November, however, Bascom Lewis, Advocate Defender at Whitaker, investigated new reports of mistreatmnet by [redacted] and on December 15, 1978, the Whitaker Superintendent recommended that [redacted] be considered by the Department's Disciplinary Review Committee.

Following further investigation by the State Office, and the hearing before the Disciplinary Review Committee, it was recommended that [redacted] be transferred to some other type of employment if possible, and that his work at Whitaker be observed and supervised pending another evaluation in sixty days. It was noted that any further "documented incidents of inappropriate physical force" would result in a recommendation for termiantion.

Reports alleging that [redacted] was either drinking or under the influence while on duty in July 1979 prompted reinstitution of disciplinary proceedings. With knowledge of these proceedings, [redacted] resigned effective July 30, 1979.

George [redacted] was recognized as a problem employee although prior to July 1979 no single incident justified immediate termination. The personnel record makes clear that he was repeatedly counselled, reprimanded and instructed regarding his work conduct. His performance was brought to the attention of the State Office and throughout his last six months of employment his work was closely monitored by senior Department officials. His timely resignation avoided further disciplinary action and probable termination.

CHARLES G. AND GEORGE [redacted] M.

Charles G. was adjudicated delinquent for grand larceny and committed to the Department on January 29, 1979. He was placed at the Boley State School for Boys on March 20, 1979.

According to others who reportedly witnessed the incident on March 24, 1979, George [redacted] caught Charles G. in the bathroom when Charles turned the light off against the instructions of [redacted]. [redacted] reportedly struck the youth twice with his fist.

The incident was immediately investigated by personnel at the school, and on March 27, the Boley Superintendent, R. L. Doyle, recommended that [redacted] be suspended for 20 working days as a result of his conduct and that the matter be referred to the Department's abuse unit. Advocate General John Leitka concurred in Doyle's recommendation and added that [redacted] should be reassigned to some duty outside the area of resident care. David Shafer, Supervisor for the Division of Institutional Services, recommended on April 13 that [redacted] be terminated immediately based upon the information received from Doyle and Leitka. After further investigation, [redacted] was terminated on June 22, 1979, for "inefficiency, inability to perform the duties of the position, and conduct unbecoming a public employee . . . (reportedly working) under the influence of alcohol . . . and . . . (because he) without justification struck a child at the Boley State School for Boys."

This incident was promptly reported and investigated. Further investigation and documentation was warranted prior to termination in this particular case because both the Advocate

General and the superintendent had recommended discipline less severe than termination.

WAYNE W. AND BENNIE [redacted] M.

Another inquiry of the Subcommittee staff involved an unsubstantiated incident at Boley State School in which a student reported he was choked and threatened with a knife.

Wayne W., a juvenile at the Boley State School for Boys, alleged that on April 8, 1979, he was choked and threatened with a knife by Shift Supervisor Bennie [redacted] (The letter of February 12, 1982, from Cohen to Rader, and the testimony on February 11, incorrectly identified George [redacted] as the employee allegedly involved in an incident on April 8, 1979.) The incident was immediately investigated by the Advocate Defender and at least seven juveniles and three employees were interviewed in connection with the investigation. The statements were in conflict, and on April 17, 1979, David Shafer, Supervisor of the Division of Institutional Services, recommended that Wayne be given a polygraph examination "as soon as possible." The Department's Advocate General John Leitka also recommended polygraph examination of Wayne, and stated: "If he cannot pass the examination, the matter can be closed."

An examination of the student was requested on April 17, 1979, but Wayne went AWOL and was not available. A polygraph examination was finally administered by an examiner with the Oklahoma State Bureau of Investigation on July 27, 1979, but the results were "inconclusive." The examiner observed that all of the student's reactions were very erratic. Such a condition may be induced by drug use. [redacted] volunteered for examination, but examination was cancelled because he suffered from severe hypertension. [redacted] continues to work as a shift supervisor.

The matter was promptly and thoroughly investigated by the Advocate Defender, and referred to the State Office.

State Office response was also prompt and unequivocal. The juvenile interfered with the course of the investigation by going AWOL, and possibly by deliberate use of drugs. The employee showed no reluctance to cooperate fully with the investigation. The matter was properly closed without disciplinary action against the employee. There is nothing in the record to suggest that the Department was wrong in accepting the account of its employee rather than that of the resident.

CYNTHIA H.

Subcommittee testimony on February 11 also gave credence to allegations by Cynthia H., a former resident who claimed that she was placed in a form of solitary confinement for two weeks during which she was chained to a wall and beaten. Such charges undoubtedly have great dramatic effect. They are, however, totally without foundation. Records of the individual involved show that she was detained in a crisis intervention center for one day after she threatened to attack a staff member with a shovel. The same person was later placed in detention for one day several months later for being AWOL. A third period of less than one day in detention was assessed because she stole and damaged a garment belonging to another resident. Restraint with chains is strictly prohibited by Department policy, no room such as described by the juvenile exists in any institutions, and the Department is confident that the lurid account given by this resident is a complete fabrication.

Cynthia H. was described during the February 11 hearing as "only a status offender . . . placed in custody to receive necessary care." According to State records prepared in 1976, Cynthia was "very hostile" and "sexually active" at the age of 14. Two years later, while in her sister's custody, she ran away from home and charged that she had been repeatedly raped by her brother-in-law. Rape charges were dropped, however, when she refused to testify. Records also show that while in a community youth shelter she was abusive and threatened both house parents and other youth. She was described as "belligerent . . . hostile and angry toward everyone." She was a "disturbing factor" in foster home situations, could not get along with other youth, and was "seductive to younger boys." These records predate her alleged mistreatment.

* * *

Anytime an inquiry, such as this one by the Subcommittee, focuses solely on alleged "worst cases," a distorted image will be conveyed. Here the "worst cases" not only do not reflect the normal method of operation, many of the cases did not occur as reported. Where there were corroborated instances of poor judgment or misconduct by employees, they were dealt with swiftly and effectively.

What the Subcommittee does not have, and has never sought, are the records of the vast majority of the juveniles at the institutions in question that have been well-treated and are benefiting from the rehabilitation and training programs which are offered. The Subcommittee has been given a selective and distorted view, and even the selective facts and allegations presented to the Subcommittee lose significance when fully analyzed.

There is no real issue to concern this Subcommittee or to warrant Congressional intrusion into the operation of the Oklahoma juvenile programs. There is no misuse of federal funds and no pattern of abuse of juveniles. Oklahoma has its share of serious problem children. In dealing with them, there have been a few cases of overreaction. Each verified case of overreaction or misconduct was dealt with firmly. No one familiar with the Oklahoma juvenile programs could conclude that impermissible conduct has been left unpunished, let alone encouraged.

Appendix to May 27
testimony of George Miller.

Edited For Release
March 6, 1982

March 5, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Juvenile Care and Treatment Programs
of the Department of Human Services,
State of Oklahoma

THE PROGRAMS

The Oklahoma Department of Human Services operates 13 facilities for the care of juveniles. Together these institutions represent a comprehensive program for the care, treatment and training of young people who, for one reason or another, cannot be cared for in their homes, private institutions, or in existing community-based programs.

The following is a brief description of the juvenile facilities operated by the Department:

- Three state schools for the mentally retarded handle the most severe mental retardation cases in a comprehensive and modern program. Our newest facility at Hissom is widely acclaimed and has been a model used by many other states in establishing their facilities for the mentally retarded. In addition, many less severe mental retardation cases are handled in community-based homes that also receive state support.

- Two special training and rehabilitation facilities -- the Oklahoma School for the Deaf and the Oklahoma School for the Blind -- are coeducational, residential schools providing specialized academic and training programs. Only a very small percentage of these students are committed to state custody. The vast majority are enrolled at the instance of their parents or guardians.

- Two receiving homes -- one in Tulsa and one in Oklahoma City -- receive youth who are awaiting court hearings or placement in group or foster homes. They are coeducational and receive youth of all ages. Regular academic programs are offered even though most of the youth remain in these facilities for only a short time.

- The Department supports programs of community-based facilities for other juveniles who require some form of residential care but who do not present problems requiring placement in more secure facilities. These group homes are very expensive to operate. While we would like to expand this program, budgetary restraints limit our ability to do so. Funds have been requested from the legislature to achieve this objective.

- There are six general care and treatment facilities for juveniles. These have been the focus of the Subcommittee's inquiries. These facilities are used for the care and treatment of juvenile delinquents, juveniles in need of supervision ("INS"), and deprived juveniles. Delinquents are those who have been found guilty of criminal activity. The INS category includes juveniles who have been adjudicated as "unmanageable" or "beyond control." These juveniles may have criminal arrest records. They would not be considered for assignment to one of these six facilities unless they presented serious behavioral problems in community-based or private programs. These INS juveniles are not merely deprived but have a record of anti-social conduct.

Deprived youth are those without adequate parental care and supervision. To the extent possible, the State separates these youth from the more serious delinquent or INS residents.

In any case, a juvenile is assigned to one of the six care and treatment facilities only after community program resources have been exhausted or they have been denied to the particular youth because of his record.[1] Because many community and privately-operated programs "give up" on problem juveniles or refuse to assume responsibility for those involved in serious crimes, the state facilities are institutions of last resort for them.

The six general care and treatment facilities are:

Helena State School for Boys. The youth population at the Helena State School for Boys is approximately 98% delinquent with the balance consisting of INS youth. No deprived youth are at Helena. The Helena residents are all high school age. Except for the maximum security program at the Rader Center, Helena receives the "toughest" problem youth in the system. The program involves both regular academics and vocational rehabilitation. Some facilities need upgrading, but capital improvements, although planned, were largely deferred pending action on the settlement stipulation that required the closing of juvenile programs at Helena.[2]

Boley State School for Boys. The Boley State School for Boys is very similar to Helena. The population is 95% delinquent youth, and the program provides both regular academics and vocational rehabilitation. Boley is used exclusively for boys under 15 years of age or whose physical and developmental limitations dictate placement with younger children.

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[1] Of the 1312 delinquent and INS youth in the custody of the Department on March 1, 1982, 650 were in one of the six state facilities. Only 160 of the 4386 deprived children in the Department's custody were in state facilities on March 1. These most recent figures are representative of the statistical percentages over the last several years. In 1981, the Department provided services through all of its juvenile programs to approximately 40,000 Oklahoma youth.

[2] The proposed Stipulated Agreement in Terry D. v. Rader, No. CIV-78-0004-T (W.D. Okla.), required that operations cease at Helena by June 1, 1982. A principal objection to Helena is its remote location. Some believe that it is too removed from the urban environment from which the youth come and to which they must return. The remote location also makes staff recruiting more difficult. The settlement was disapproved by the District Court on February 26, 1982.

Oklahoma Children's Center. The coeducational Oklahoma Children's Center ("OCC") at Taft is for INS and deprived youth who have not been adjudicated delinquent. The emphasis at OCC is heavily on vocational training although a full academic program is offered. Youth must be at least 15 for placement in this program.

Central Oklahoma Juvenile Treatment Center. The Central Oklahoma Juvenile Treatment Center at Tecumseh provides intensive psychological treatment and therapy programs for INS and delinquent youth. No youth with a history of violence are involved in this program, and before admission a youth must demonstrate both the mental capacity and the attitude which will enable him or her to respond to the program. The coeducational population includes youth ages 15 through 17.

Whitaker State Children's Home. The Whitaker State Children's Home serves deprived and INS youth of all ages. Both male and female are at Whitaker, and there are no delinquents. The program includes regular academics, special education, and some vocational training.

L.E. Rader Diagnostic, Evaluation and Treatment Center. Two distinct programs are administered at the L.E. Rader Diagnostic, Evaluation and Treatment Center. One is the Department's coeducational, maximum security facility for youth who have been adjudicated delinquent in connection with a major violent crime, or who have been referred from Boley or Helena because of violent or aggressive behavior which is a threat to other persons. The Rader Center also has the Department's diagnostic and evaluation service which processes incoming youth prior to assignment to a care and treatment facility or to a program in their home community.

THE ADVOCATE DEFENDER PROGRAM

The Department's Advocate Defender program was initiated in May 1978 based upon studies made of grievance systems in other states, primarily in California. When initiated, the Oklahoma program was unique in that it put an Advocate Defender permanently on every campus and made the Advocate Defender answer only to the State Office, not to the superintendent of the facility where the Advocate Defender was located. By the end of 1981, 1463 complaints had been processed by the Advocate Defenders. Of this number, 442 complaints alleged physical abuse. All of the complaints were investigated, and of the 442 alleged physical abuse complaints, 78 were substantiated and resulted in disciplinary action against 60 individual employees. The employee disciplinary actions ranged from a verbal reprimand to termination. Approximately 40 of the offending employees either were terminated, resigned, or were transferred to assignments avoiding youth contact. The Department's Office of the Inspector General is involved in the investigation of complaints if criminal activity is suspected, and local law enforcement agencies are notified of matters involving possible criminal prosecution.

THE ALLEGATIONS

The so-called "abuse" reports generated by the Advocate Defender system have apparently supplied the principal basis for the allegations that the Subcommittee heard at its February 11 hearing. These reports are confidential under state law. It not only violates the law but offends the system when these are publicly disclosed. This is particularly true when the disclosure is incomplete, as it was in this case, and the false impression is given that the reports reflect normal patterns of conduct at the state facilities.

The Subcommittee should not lose sight of the fact that the delinquents and INS youth who reside at Helena and Boley, and to a lesser extent at the Oklahoma Children's Center and Whitaker State Children's Home, are not simply docile youth who have been abandoned or orphaned. Rather, they represent the most serious behavioral and emotional problems among the under-age population in Oklahoma. Misbehavior and defiance of authority are therefore an inherent aspect of these facilities. The residents are prone to serious and frequently violent criminal activity. Not long ago, a 56 year-old laundry employee at Helena was raped and murdered by a male resident.

Running these facilities is not like running a nursery school, and the Department does not delude itself into thinking they are the same. The operation of these facilities must be judged in this context.

Notwithstanding all of this, the Department still has strict rules, which it enforces, that govern the way in which its employees deal with the residents at these facilities. Employees are not free to run rampant, to engage in excessive use of force or exploitation of the residents, to take personal advantage of them, or to engage in intimacies with them.

The cases brought before this Subcommittee involve allegations that these rules have been violated. Far from showing that the alleged conduct was accepted or condoned, the full record in each case confirms (1) that mechanisms are in place to enforce Department policy prohibiting mistreatment; (2) that youth have ready access to advocates and do use the opportunity to complain about conditions or treatment; (3) that all allegations of abuse are promptly investigated; (4) that serious allegations are immediately brought to the attention of senior Department officials; and (5) that when misconduct is confirmed appropriate action is taken against the offending employee.

The juvenile case files dramatically illustrate the range and nature of problems and circumstances which occur on a daily basis in the Department's juvenile programs, the efforts of employees to avoid confrontation in compliance with Department policy, and the use of special "crisis teams" at facilities such as Helena where professional intervention is believed necessary to minimize the possibility of violent student behavior.

The Subcommittee's 21 specific requests relate to eight separate incidents or matters: (1) homosexual allegations involving a Boley resident and a social worker; (2) the Department's investigation of alleged drug and sex-related incidents at Oklahoma Children's Center; (3) incident alleged to have occurred on October 23, 1979, involving a Helena resident and the superintendent of the facility; (4) incident alleged to have occurred on June 24, 1979, involving a Boley resident and a Youth Guidance Specialist; (5) allegations that a security officer at Helena used "excessive force" in restraining students; (6) allegations of mistreatment by a Whitaker house parent in 1978 and 1979; (7) incident alleged to have occurred on March 24, 1979, involving an employee and a resident of Boley; and (8) incident alleged to have occurred on April 8, 1979, involving an employee and a resident of Boley. This memorandum briefly identifies the individuals involved, summarizes the alleged incident or circumstances, and reports the Department's action in connection with the alleged incident or circumstances.

(1)

[Case file information on juvenile's background omitted.]

In April 1980, a juvenile resident of Boley reported observing a Boley social worker commit oral sodomy on an unresisting resident. The incident was alleged to have occurred on February 23, 1980. A formal investigation of the alleged homosexual incident was initiated by R. Chase Gordon, coordinator of the Bureau of Institutional and Community Services to Children and Youth, on April 23, 1980, and the employee was relieved of duty pending results of the investigation. A detailed report was submitted to the State Office and to the Oklahoma State Bureau of Investigation by William T. Saxton of the Department's internal investigation unit on April 28, 1980.

A polygraph examination of the employee was conducted on May 15 by the Oklahoma State Bureau of Investigation, and the examination indicated "strong and consistent positive deception." A polygraph examination of the juvenile indicated that his statement that the employee had performed oral sodomy was truthful. The employee was terminated on July 31, 1980, "because of misconduct and conduct unbecoming a public employee and . . . a homosexual act with a student."

The Subcommittee was told of the acts allegedly committed by the employee but was told nothing about the Department's response. As can be seen, the Department acted quickly, made a thorough investigation and took appropriate and decisive disciplinary action. No one familiar with these facts could fairly suggest that the Department in any way condoned the conduct involved.

Unfortunately, the story does not end at this point. The employee appealed his dismissal, and several months later the State's personnel review board ordered him reinstated. After his return and with his consent, he was transferred because of his inability to "function effectively" at Boley as a result of the homosexual allegations. The transfer was effective December 8, 1980. He was again terminated on February 9, 1982, for tardiness, excessive absenteeism, and conduct unbecoming a state employee.

Comment

The Subcommittee was left with the impression that the Department had done nothing about this incident until it was "exposed" in recent newspaper reports. It should now be apparent that this was a completely misleading impression. The Department acted with dispatch and took severe disciplinary action. Although the employee was reinstated, he did not remain on the Boley staff. His later termination was based on subsequent performance failures that were unrelated to any allegations of abuse of residents.

(2)

The Oklahoma Children's Center ("OCC") is located in Taft, Oklahoma, a small economically-depressed community approximately eleven miles from Muskogee. The community has no local law enforcement.

Department officials became aware in 1977 that drugs were freely available on or around the OCC campus, and there was evidence that some individuals in the area were preying on young women at the Center for sexual purposes. As a result of steps initiated by the State Office in cooperation with Muskogee County law enforcement officials, and as a direct result of work by Jack Campbell (OCC superintendent from November 1977 to late 1979) the problems were brought under control in early 1978. According to Campbell and state officials, the potential for serious problems has existed and will continue to exist at OCC because of its environment, and periodically new initiatives have to be taken by state officials to recover and retain control of the situation.

On September 18, 1981, OCC Superintendent Wilbur Williams requested assistance from the State Office in dealing with the problem of "a part of the male population of Taft . . . assisting in harboring our female student population and in some cases utilizing them for sexual purposes." Williams' primary concern was unauthorized entry onto the campus by persons supplying drugs and attempting to take young women away from the Center. Williams' request was received on Monday, September 21, by the Department's Inspector General Charles Garrett. On Tuesday, September 22, investigators from the Office of the Inspector General ("OIG") met with the Muskogee County sheriff and arrived on the OCC campus. The investigation went forward from that date and by mid-October much of the immediate problem had been abated.

On October 16, 1981, Department officials including Lloyd Rader, Garrett and Wesley Rucker, Supervisor of Institutional Services, met with Mike Turpin, district attorney for Muskogee County. The purpose of the meeting was to involve the district attorney in prosecuting individuals which the investigation had linked to various juvenile-related crimes in and around OCC. In cooperation with the district attorney's office, the investigation continued and by January it became apparent that the investigative trail might lead to information on criminal activity involving individuals in Tulsa and other parts of the state. In late January, Department and law enforcement officials involved in the investigation began to consider using undercover agents in Taft and possibly in Tulsa.

As a result of the investigation, two Taft residents have been charged with sex-related offenses, and preliminary hearings have been set. Additionally, two OCC employees have been terminated. One employee was terminated for soliciting female residents for prostitution; the other was terminated on suspicion of supplying and dealing drugs. Other prosecutions and terminations may yet occur, and several resignations may have been prompted by the ongoing State Office investigation.

Unfortunately, the broader investigation was abruptly thwarted because of news reports published in early February, apparently based on "leaked" information. The premature exposure terminated any consideration of using undercover agents because of the risks involved, and effectively ended the prospect that the investigation might lead to arrests and prosecution that would have had some long-term impact on the drug and prostitution rackets in Oklahoma.

Comment

Promptly after receiving information from the OCC superintendent that the drug and prostitution problems at the Center were out of control, the State Office provided enforcement assistance, initiated a major investigation, involved local law enforcement officials, and discharged two employees found to have been involved in illegal activity.

The Subcommittee was given the impression that the activities of the two offending employees had been condoned and that the Department discharged them only because of the newspaper publicity. The truth is that the terminations were delayed deliberately so as not to compromise the Department's ongoing broader investigation of criminal activity. In the interim the employees were kept under close surveillance. Once the newspaper accounts had effectively frustrated the investigation, there was no need to withold action. Thus, the two employees were terminated. While this action was appropriate, the Department is disappointed that a real opportunity to effect a much more wide-ranging apprehension of law breakers has been blocked.

The investigation was only one aspect of the Department's effort to deal with an admittedly serious problem at OCC. The budgeted security force at OCC has been tripled since September 1981, a new chief of security with 20 years experience in law enforcement has been hired, and new security procedures have been implemented. Security facilities (fencing, locks, etc.) have also been significantly upgraded, primarily for the purpose of keeping unauthorized persons off the campus. A new employee screening procedure has been adopted at OCC which involves a fingerprint check through local and federal law enforcement agencies. Every new employee agrees to conditional employment pending a report on his fingerprints.

OCC presents a very difficult situation which has been a concern for the Department for several years. OIG representatives firmly believe that the investigation begun last fall had reached a point of major breakthrough in January. The opportunity to attack the broader problems of drug-dealing and prostitution in Oklahoma was destroyed, however, by the untimely publicity.

(3)

[Case file information on juvenile's background omitted.]

On October 23, 1979, the Helena resident returned from a home visit under the influence of alcohol. He attacked another student, and knocked a recreation worker to the floor. The resident threatened to kill another resident and was escorted to a residential cottage where he became violent and began overturning furniture. He was placed in detention in another building where he attempted to slash his wrists and to hang himself with a bedsheet. After the two suicide attempts, he was placed in restraints.

Upon his release from detention, the resident complained to the Advocate Defender that while he was restrained, he had been kicked on the right side of his head and neck several times by the Helena superintendent. The only injuries identified in a physical examination by the school nurse, however, were a small abrasion on his neck just below the right ear and several visible scratch marks on his left wrist.

In a signed statement dated October 25, 1979, the superintendent stated that he had attempted to "hold him down with my knee and hands to prevent him from injury. My knee was placed on his shoulder. At no time did I or any staff attempt to strike or injure [the resident] in any way." The matter was extensively investigated by the Office of the Advocate General, and testimony of persons reportedly at the scene of the incident conflicted.

The matter was referred to the Department's disciplinary review committee which convened on November 8, 1979, approximately two weeks after the incident and one week after the conclusion of the investigation. The committee determined:

> The allegation of inappropriate handling was not sustained by facts. The conduct of the Superintendent does not amount to abuse of the juvenile. That no injury occurred as a result of any action that he took. That no evidence was received which sustained that adverse personnel action should be taken. That although physical contact with the Student occurred at the time, there was no evidence of any intent on the part of the Superintendent to harm or injure the juvenile.

The review committee observed that it had been given 15 different versions of the events by various participants and alleged witnesses.

The Helena resident is now living in the Oklahoma City area. Following recent news media publicity related to the incident, he met with the Helena superintendent and reported that he had been solicited at the time of the incident by two disgruntled employees to make trouble for the superintendent. He also stated that the news media stories were not correct. He subsequently appeared on television in Oklahoma City to state, in effect, that the superintendent's account of the incident was correct.

Comment

It is unfortunate that the Subcommittee was not given the full account of this incident as reflected in the Department's records, including the facts showing the rapid and thorough investigation made by the Department. Indeed, had Subcommittee investigators interviewed the resident, their testimony would most certainly have been very different. The now complete account of this incident demonstrates that the response of the institution to the juvenile's severe provocation was appropriate and raised no issue of abuse or brutality.

(4)

[Case file information on juvenile's background omitted.]

A Boley resident reported to the Advocate Defender that on June 24, 1979, a Youth Guidance Specialist had forcibly taken him from his cubicle following a shower and proceeded to kick, choke and slam him to the floor. Based upon the report from the Advocate Defender, Institutional Services Supervisor David Shafer stated that the allegations "have been substantiated in writing by the other Youth Guidance Specialist on duty." A detailed investigation was conducted by Advocate General John Leitka and on July 3, Shafer recommended to L.E. Rader that the employee be terminated. The termination recommendation was based upon a conclusion that the employee's conduct was in "direct violation of the Department's policy on child care," that he had previously been the subject of abuse allegations, had been previously reprimanded and had been, on one prior occasion, referred for disciplinary review. The employee was immediately thereafter relieved of duty, and on August 28 was reassigned to a State roofing crew.

Comment

The Subcommittee was given a lurid account of the employee's handling of the juvenile. It would have been better served had it also been told of the immediate action of the Department. The response emphasizes the Department's strong policy against unnecessary use of force on residents and its determination to take appropriate disciplinary action whenever that policy is violated.

(5)

[Case file information on juvenile's background omitted.]

On May 12, 1980, a violent Helena resident was placed in restraints by one security officer while being held by another officer. Although the first officer reported that he placed the cuffs on the juvenile correctly, the other officer subsequently tightened the cuffs. The juvenile complained and the first officer asked the other to loosen the wrist restraints. The latter did not loosen the cuffs for approximately sixty minutes. The first officer reported to Robert Lamont, Advocate Defender at Helena, that he believed the other officer had used excessive force. Helena's superintendent was advised of the incident and reportedly instructed the employee not to use excessive force of this nature. The records indicate that the juvenile had struck the employee in the course of being restrained.

On May 14, 1980, the same employee was involved in an incident in which a resident was reportedly violent and "out-of-control," and leather restraints were used. The youth twice chewed through the leather restraints, and once free began beating on the door, tearing up bed clothing and the mattress, and attempting to destroy bathroom fixtures and flood the room. At this point the employee proposed using chains, and reportedly went off campus to get the chains. All employees involved in the incident were reprimanded by the superintendent and instructed that chains were not to be used as restraints and were not allowed on campus.

Based upon these two incidents and a third incident occurring during the same month, the superintendent recommended that the employee be terminated for repeated use of excessive force. Before the termination recommendation was acted upon, the employee was transferred and approximately two weeks after the transfer resigned from the Department effective June 15, 1980.

Comment

The account of the incident indicates the provocation by the residents and the need for a strong defensive response.

Nevertheless, the actions of the employee seemed to go beyond what was necessary to deal with the situation. As a result, the Department acted responsibly and promptly. Although one incident of over-tightening wrist restraints would probably not be cause for terminating a security officer, a series of two or three incidents demonstrating his unwillingness to refrain from using excessive force or improper equipment in restraining juveniles prompted the superintendent to recommend termination. Within thirty days after the incidents, the employee resigned with knowledge of the pending termination decision. A resignation, unlike a forced termination, cannot be appealed to the State's personnel review board and in many cases is a preferable result.

While the excessive use of force anytime is unfortunate, the foregoing account should assure the Subcommittee that even under extenuating circumstances the Department does not permit or condone violations of its policy.

(6)

During his first six months of employment, a house parent at Whitaker State Children's Home was repeatedly counseled and cautioned about conduct not in compliance with the rules and policy of the Department. In particular, he was reportedly using corporal punishment, although no resident ever complained of mistreatment requiring medical attention.

From August to December 1977, the employee's conduct was apparently acceptable. In December 1977 and February 1978, however, several incidents of corporal punishment or mistreatment were reported. He was again reprimanded and counseled by his supervisor. In late November, Bascom Lewis, Advocate Defender at Whitaker, investigated new reports of mistreatment and on December 15, 1978, the Whitaker superintendent recommended that the employee be considered by the Department's disciplinary review committee.

Following further investigation by the State Office, and the hearing before the disciplinary review committee, it was recommended that the employee be transferred to some other type of employment if possible, and that his work at Whitaker be observed and supervised pending another evaluation in sixty days. It was noted that any further "documented incidents of inappropriate physical force" would result in a recommendation for termination.

Reports alleging that the employee was either drinking or under the influence while on duty in July 1979 prompted reinstitution of disciplinary proceedings. With knowledge of these proceedings, he resigned effective July 30, 1979.

Comment

This individual was recognized as a problem employee, although prior to July 1979 no single incident justified immediate termination. The personnel record makes clear that he was repeatedly counseled, reprimanded and instructed regarding his work conduct. His performance was brought to the attention of the State Office and throughout his last six months of employment his work was closely monitored by senior Department officials. His timely resignation avoided further disciplinary action and probable termination.

(7)

[Case file information on juvenile's background omitted.]

According to others who reportedly witnessed the incident on March 24, 1979, an employee caught a Boley resident in the bathroom when the youth turned the light off against instructions. The employee reportedly struck the youth twice with his fist.

The incident was immediately investigated by personnel at the school, and on March 27, the Boley superintendent recommended that the employee be suspended for 20 working days as a result of his conduct and that the matter be referred to the Department's abuse unit. Advocate General John Leitka concurred in the recommendation and added that the employee should be reassigned to some duty outside the area of resident care. David Shafer, Supervisor for the Division of Institutional Services, recommended on April 13 that the employee be terminated. After further investigation, the employee was terminated on June 22, 1979, for "inefficiency, inability to perform the duties of the position and conduct unbecoming a public employee . . . (reportedly working) under the influence of alcohol, . . . and . . . (because he) without justification struck a child at the Boley State School for Boys."

Comment

The incident was promptly reported and investigated. Further investigation and documentation was warranted prior to termination in this particular case because both the Advocate General and the superintendent had recommended discipline less severe than termination.

(8)

A juvenile at the Boley State School for Boys alleged that on April 8, 1979, he was choked and threatened with a knife by a shift supervisor.[3] The incident was immediately investigated by the Advocate Defender and at least seven juveniles and three employees were interviewed in connection with the investigation. The statements were in conflict, and on April 17, 1979, David Shafer, Supervisor of the Division of Institutional Services, recommended that the juvenile be given a polygraph examination "as soon as possible." The Department's Advocate General John Leitka also recommended polygraph examination of the complaining resident and stated: "If he cannot pass the examination, the matter can be closed."

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[3] The letter of February 12, 1982, from Cohen to Rader, and the testimony on February 11, incorrectly stated that the same employee was involved in separate incidents allegedly occurring on March 24, 1979, and April 8, 1979.

An examination of the youth was requested on April 17, 1979, but he went AWOL and was not available. A polygraph examination was finally administered by an examiner with the Oklahoma State Bureau of Investigation on July 27, 1979, but the results were "inconclusive." The examiner observed that all of the juvenile's reactions were very erratic. Such a condition may be induced by drug use.

The accused employee volunteered for examination, but examination was cancelled because he suffered from severe hypertension. He continues to work as a shift supervisor.

Comment

The matter was promptly and thoroughly investigated by the Advocate Defender, and referred to the State Office. State Office response was also prompt and unequivocal. The juvenile interfered with the course of the investigation by going AWOL, and possibly by deliberate use of drugs. The employee showed no reluctance to cooperate fully with the investigation. The matter was properly closed without disciplinary action against the employee. There is nothing in the record to suggest that the Department was wrong in accepting the account of its employee rather than that of the resident.

* * *

The foregoing responds to each of the incidents covered by the Subcommittee's letter of February 12, 1982. However, at the Subcommittee hearing on Thursday, February 11, the first staff witness referred to other incidents allegedly reported by four former juvenile residents. Although these were not referred to specifically in Mr. Cohen's letter, the Department wishes to comment on them as well in order that this submission be a complete response to all of the allegations that were made at the hearing.

One point repeatedly made during the hearing was that the four juveniles whose alleged experiences were being recounted were "deprived" children who were not institutionalized because of any anti-social behavior. Since the Subcommittee apparently believed that the background of these juveniles was pertinent, it is appropriate that it be more fully informed as to the reasons for their placement in State facilities.

[The full submission to the Subcommittee included confidential information from case files evidencing violent, anti-social behavior. The information from the juveniles' records gives a considerably different picture of the reasons for their placement in State facilities than was presented at the Subcommittee hearing.]

The Department does not know why the four particular individuals were selected for attention at the Subcommittee hearing. The staff investigator apparently talked with these four people. The Department does not know what tests were made by the investigator to determine the reliability of the accounts given, what motives the people may have had in making their statements, or whether the accounts accurately represent what these people said. One of the four has since contacted the Department to state that she felt she had been misled by the investigator, and that the testimony about her at the hearing was not entirely accurate.

The one most telling feature of the incidents alleged to have been experienced or observed by these juveniles is that they are not reflected in Department records. None was apparently reported to an Advocate Defender, although the Advocate Defender process was in place during most of the time these people were residents and was being used widely by other residents. No one was prevented from talking to an Advocate Defender, and no one was penalized for filing a complaint. The absence of any written record casts a serious cloud on the reliability of the stories now being told.

There is no way that the Department can now adequately investigate these allegations, which relate to incidents that allegedly occurred anywhere from one to four years ago. But such information as the Department does possess undermines the credibility of the allegations. For example, much was made at the hearing of charges that handcuffs used on one resident had scarred her wrists. The staff investigator testified that he had personally observed these scars. Department records, however, completely refute these charges.

It can also be said that the incidents alleged for the most part were prohibited by specific Department policy or were contrary to established practice. As shown above, the Department's policy is strictly enforced and anyone violating this policy is subject to discipline.

There are allegations of fondling by a superintendent and the staff dentist at one of the State facilities. But the established policy is that no dentist sees a patient alone; a female dental assistant was present at all times. This has been confirmed by a sworn statement by the dental assistant. Furthermore, the superintendent has sworn under oath that he has never had intimate contact with any resident.

There were charges that mail was intercepted improperly and never delivered or sent. But Department policy permits review of incoming mail only in certain circumstances. Since 1978, personal mail is opened by the Department only in the presence of the addressee and only if there is good cause to believe that it contains contraband. U.S. Postal Service mailboxes are located on each campus for depositing outgoing mail.

One charge was that the Rader facility did not adequately attend to a deaf student who exhibited self-destructive tendencies. The Rader Center has both a board-certified psychologist and a deaf interpreter on staff, as well as a full-time medical staff, and there is simply no basis for any such charge of neglect.

Allegations were made about repetitive strip-searches of juveniles entering institutions. It is the policy of the juvenile facilities to undertake body searches where there is strong suspicion that a juvenile is carrying contraband. Any search requiring disrobing or "patting down" must be reported in writing to the supervisor with a copy given to the student. That policy is enforced. Also, incoming residents to a residential cottage must shower and use medicated shampoo. This accepted hygienic procedure involves no violation of personal privacy.

Finally, there were allegations that one resident was placed in a form of solitary confinement for two weeks during which she was chained to a wall and beaten. Such charges undoubtedly have great dramatic effect. They are, however, totally without foundation. Records contradict these claims, restraint with chains is stricly prohibited by Department policy, and the Department is confident that the lurid account given by this resident is a complete fabrication.

Department records also provide further information and insight with respect to the allegations involving a male resident at Whitaker. The daily log indicates that he was "mad about something" when he returned to his residential cottage after a social event on March 5, 1981, and was beating on a door. He reportedly threatened self-injury and suicide. The resident staff member decided that he should be transferred to the crisis prevention center in another building in order to avoid any confrontation. While being transferred to the other area, he allegedly struggled with two employees and was injured when one of the employees twisted his arm behind his back. Records directly contradict injury allegations repeated at the Subcommittee hearing.

The incident was thoroughly investigated by the Advocate Defender and by the State Office, and it was determined that the two employees had used excessive force in controlling and escorting the violent youth to the crisis prevention center. The matter was referred to the state district attorney who found the evidence insufficient for prosecution. Based upon several incidents during 1981 involving the use of excessive force and evidencing an unwillingness to follow Department policy and procedures on subduing and controlling violent juveniles, both employees were terminated. The Subcommittee testimony was misleading to the extent it gave the impression that the employees were not held accountable for their use of excessive force in subduing the violent youth.

CONCLUSION

Anytime an inquiry focuses solely on alleged "worst cases," a distorted image will be conveyed. Here the "worst cases" not only did not reflect the normal method of operation, many of the cases did not occur as reported. Where there were corroborated instances of poor judgment or misconduct by employees, they were dealt with swiftly and effectively.

What the Subcommittee does not have are the records of the vast majority of the juveniles at the institutions in question that have been well treated and are benefiting from the rehabilitation and training programs which are offered. The Subcommittee has been given a selective and distorted view, and even the selective facts and allegations presented to the Subcommittee lose significance when fully analyzed.

There is no real issue to concern this Subcommittee or to warrant Congressional intrusion into the operation of the Oklahoma juvenile programs. There is no misuse of federal funds and no pattern of abuse of juveniles or other violation of their rights. Oklahoma has had its share of serious problem children. In dealing with them, there have been a few cases of overreaction. Each verified case of overreaction or misconduct was dealt with firmly. No one familiar with the Oklahoma juvenile programs could conclude that impermissible conduct has been left unpunished, let alone encouraged.

There is nothing that requires further inquiry by this Subcommittee.

[This memorandum has been prepared by officials of the Oklahoma Department of Human Services under the supervision of George Miller, Secretary to the Director.]

Senator **Boren**. That is a step in the right direction. I know you have due process. You can be subject to law suits from attorneys for employees as well as attorneys for children. I do recognize that. But one thing that we should do is suspend an employee suspected of wrong doing during the appeal process. I hope that this procedure will become the established policy of the department.

Senator **Specter**. Mr. Bruce Cohen has called Mr. Hudson.

Mr. Cohen, will you report, because it is in direct contradiction with what you testified. I want to set the basis for determining factually what has gone on here.

Mr. **Cohen**. Senator, when I spoke to Mr. David Hudson late this morning, I asked him whether he ever told Greg Tucker, who is one of the attorneys for the department that "OSBI investigations had indicated that the department was not at fault." Mr. Hudson told me that he had not said that to Mr. Tucker. I asked Mr. Hudson whether he had told Mr. Tucker that the OSBI had indicated that the department had responded properly or appropriately. Mr. Hudson told me that he did not say that to Mr. Tucker. Mr. Hudson explained to me that he did not comment on the department to Mr. Tucker; that the focus on the OSBI investigations is on a case-by-case evaluation on the investigations.

He noted that the purpose of the OSBI investigation was not to evaluate the department. He said that what he did tell Mr. Tucker when Mr. Tucker called'him late last week was that of the reports that had been forwarded to the local prosecutors from the OSBI, and in which local prosecutors had made their decisions, no new charges had been lodged. He did note for me that two of the matters that OSBI had been investigated were matters in which charges have already been filed. He estimated that of those cases, which sit within his limited description, there would only be approximately five cases that had been forwarded or in which reports had been forwarded from OSBI local prosecutors and in which the prosecutor had made the decision not to proceed.

He estimated that there were at the time approximately two or three cases still being reviewed by local prosecutors.

I also asked him whether he could estimate how many incidents, matters, or cases were still being reviewed by the OSBI and he said he could not accurately estimate the number of cases.

Senator **Specter**. Mr. Charles Miller, it is my request to you that as lead counsel for the department, that you supply us with additional information to the extent that Mr. George Miller wishes to modify what he has testified to today, which is at variance with what has just been said and what is in the report, and the extent to which you may or may not want Mr. Tucker to make a statement for the record. This is obviously a delicate subject where counsel is involved. I leave those requests in your hands to pursue without the pressures of responding here this morning.

Mr. C. **Miller**. I appreciate that. I would like to make a complete report on this too as soon as we can get all the facts.

Senator **Specter**. I would like to now——

Mr. G. **Miller**. I did introduce Representative McCorkell and he has indicated he would like to testify. He says he has a plane to catch back to Oklahoma this afternoon; if you could possibly accommodate him for a brief statement, we would be grateful.

Senator SPECTER. What time is the plane?

Mr. MCCORKELL. The middle of the afternoon, around 3 o'clock.

Senator SPECTER. We will hear you briefly, Mr. Representative, before we adjourn for the quorum call.

Mr. Rader, we appreciate your coming today. The subcommittee has been advised of your long, distinguished service in the department of human services and we recognize your tenure and your long service. I am sure you understand that the inquiries which we are making here today are our efforts to try to improve the situation, and it is by no means any suggestion at all of anything but the most dedicated and protracted service on your behalf to the State of Oklahoma and the Department of Human Services.

Mr. RADER. Thank you, Mr. Chairman.

I would like to say that I am a part of the system of government and I have great respect for Congress. I have testified before Congress many, many times. I have great confidence in this committee and in you, sir, and I am sincere in telling you that I think there have been some errors made on the part of my employees and some on the part of your employees in this investigation, and I would like to address that to you personally sometime.

Senator SPECTER. Well, I would be pleased to meet with you on an informal basis at a later time. I am available for that purpose. I was available for Mr. Charles Miller to meet and talk. This subcommittee is interested only in improving the process.

Mr. RADER. I respect that, Senator.

Senator SPECTER. Speaking for myself individually, I have had very extensive experience in law enforcement, in juvenile crime control, juvenile treatment, in evaluation of institutions at all levels, and I think I have some developed judgment over the years of more than a decade, to have some——

Mr. RADER. To a limited degree, I know your reputation in that field, and it is certainly credible.

Senator SPECTER. There are three specific cases that I would like to ask you about where the information called to our attention shows that the items that the cases were called to your personal attention, where you had reviewed them and the underlying question which we are inquiring about at this point is what are the appropriate standards for referral for criminal prosecution. That is a question which may be an important subject for legislative action by the Congress.

I was a prosecutor for a long time, and I know not every case is appropriate for a prosecution. But what I would like is your judgment. These three matters, according to the information I have, came to your personal attention and you did not recommend a criminal prosecution. What I would like to explore with you is your thinking and why you came to the conclusion, and this may well be in 1981, if you had to do it over again, as opposed to 1978, you might do it differently.

Mr. RADER. May we deal with those individually?

Senator SPECTER. Yes.

The first incident is a matter relating to a man by the name of Fred C. On a report dated November 6, 1978, the essential situation here is that the youth guidance specialist was accused of striking a boy who had been placed in restraints with his arms and legs drawn, and while he was lying on a cement slab.

This individual was terminated, so that the matter did have action by the Department of Human Services. The document shows that the termination did receive your personal approval.

My first question is a foundation. I have the records.

Mr. **Rader**. Perhaps the system is not fully understood.

Mr. C. **Miller**. May I show him the name?

Senator **Specter**. Certainly.

[Pause.]

Mr. **Rader**. Senator, in the past, over the years, all of these were discussed and a limited number of them were—because under the law I am the—but this particular case, I do not recall. I would have to refer that to the superintendent and to the people that handled it. It was not brought to my attention and I cannot bring it to my memory.

Senator **Specter**. Let me discuss this, Mr. Rader.

If you today were faced with a finding that a youth guidance counselor—it was true, the accusation was true, that he struck a boy who had been "placed in restraints with his arms and legs drawn and while he was lying on a cement slab" and that individual had been terminated, would you think it appropriate to refer a case like that for criminal prosecution?

Mr. **Rader**. Well, Senator, the present policy, and it is thought perhaps by some to be a bit too harsh—that we are doing our very best to run a good institution and we do run a good institution. It is certainly sad and regrettable that some of these incidents have occurred and it has been allowed to drag on too long, in my opinion, by my own staff in the past before action was taken.

At the present time, and back for several months, those superintendents have been given authority to suspend immediately and those who are suspended will be brought to my attention at the conclusion of the investigation. I do know, as a prosecutor, there is a limited amount of paperwork you can throw on the district attorneys. We have a good relationship with the district attorneys in Oklahoma through the association, and many of the individuals. A system has been worked out.

I think maybe one of the boys will explain it to you this afternoon, if you care to hear, about the system which has been worked out jointly by the district attorneys' association and the individual members and our staff, that I think will take care of that.

Mr. C. **Miller**. I am suggesting, Senator Specter, that Mr. Rader complete his answer by telling you under this system new cases like this will be automatically referred to the district attorney.

Mr. **Rader**. Yes, on a written form.

Senator **Specter**. The case I just referred to would be handled differently than it was in 1978?

Mr. **Rader**. Yes, it would. It is a written report.

Mr. C. **Miller**. I would like to check and see if that case was in fact referred to the local district attorney at the time. I don't have any information one way or the other. We may be able to find out.

Senator **Specter**. We had asked you for prior cases which had been referred and there was no referral shown on this, which leads me to the conclusion that there was no referral.

Mr. C. MILLER. I recall that request and I think we indicated when we supplied the information that there has been a process in past years, during this time, for referrals to be made on an informal basis by the superintendent to the district attorney and we wouldn't necessarily have records to reflect it. So we would like to make an inquiry and see either from the superintendent at the time or the district attorney, if there is any record of a referral.

Senator SPECTER. If you have any further information on it, we would be interested to know.

Mr. Rader, you testified—I think you said that in the past, matters like this had been permitted, I think your words were, to drag on too long.

Mr. RADER. In my opinion, that is true.

Senator SPECTER. So that there have been changes made in the policy?

Mr. RADER. Yes they have been tightened up. Immediate suspension.

Senator SPECTER. Were these changes made effective March 1 of this year?

Mr. RADER. No; they were November last year.

Senator SPECTER. Was there anything specific in writing, memorializing those changes?

Mr. RADER. The policies were changed. As they go out in manual form, of course, they bear the approval of the commission. In November we adopted the standards and we pulled into that compliance.

Senator SPECTER. Mr. Rader, chief counsel just provided me with a copy of a memorandum to the subcommittee dated May 20, submitted by your counsel, which says that, "Prior to March 1, 1982, referrals to the local district attorneys were handled at both the institutional level, by the institutional superintendent and through the State office, usually by the Office of the Inspector General."

And then it goes on to describe what is being done.

Does this mean that the changes were made on March 1 or doesn't it?

Mr. RADER. My memory may be failing me but I thought we got those forms out earlier than that. The written referral—it had been in the process of discussion with the district attorneys for some time and the formalization may have gone out then.

Senator SPECTER. Mr. Rader, the form which is attached bears a date of November 15, 1977, which appears to be a time that form was put into operation, which was——

Mr. RADER. The current form I am talking about.

Senator SPECTER. That appears to be the prior form, so that the policy was the same from November 15, 1977, until the date of the memorandum of May 20.

Mr. RADER. I would have to refer that to Mr. Shafer.

Senator SPECTER. Let me ask you about another case or two, the case of a man by the name of Lowdell R., who in 1978, while a houseparent, was accused of grabbing a juvenile's head and hair and shaking his head against a wooden mailbox. We have a letter here, I will make available, dated July 31, 1978, which purports to bear your signature, to Mr. R. This is to notify you, et cetera, of termination and according to the information provided to us, that case was not referred for criminal prosecution; and my question is the same as before: Would that matter, in your judgment, by hindsight, be properly referred for criminal prosecution?

Mr. RADER. Certainly I would refer it today, Senator. But this letter in 1978—my signature is—it is another case where they didn't follow the rules. They are supposed to——

Senator SPECTER. Is that not your signature?

Mr. RADER. No, that is not my signature. Would you like to have my signature?

Senator SPECTER. Your testimony and not your signature is good enough for me. You don't have an autopen, do you?

Mr. RADER. No.

Senator SPECTER. Mr. Rader, there was testimony earlier today that—I think the word was "a slight amount of mixing," and I am referring now to a document which is published 1981, annual report, and it shows that in Central Oklahoma Juvenile Treatment Center, which I believe is known as Tecumseh, that under the category of delinquents, there were 66, and in the category of in need of supervision, there were 65, which appears to me to be more than a slight amount of mixing.

Mr. RADER. Senator, I would have to refer that to Dr. Baumberger.

Senator SPECTER. Let me ask you this: Based on the very sensitive background that you have in the field, don't you think it is a preferable practice to require that there be segregation of those that are in delinquent status with those that are only in need of supervision?

Mr. RADER. Yes, sir, I believe that. Insofar as practicable. There is a method by which administrators of that institution can tell you that.

Senator SPECTER. That is one of the most fundamental concerns which this subcommittee has had about the handling of juveniles who have been adjudicated delinquent under situations where if they were adults they would have been convicted of felonies, contrasted with those who are only in need of supervision, when there has been no adjudication, when there are parents that won't take care of them. This kind of commingling is a matter of very substantial concern.

Mr. RADER. I don't believe there has been much of that.

Senator SPECTER. But——

Mr. RADER. We can check that.

Senator SPECTER. You would agree that if the ratio is 66 to 65, that is a very substantial amount of commingling?

Mr. RADER. I am not prepared to discuss those statistics, whatever they are, reported in there.

Senator SPECTER. They are statistics from your department.

Mr. RADER. I didn't prepare the annual report. I wouldn't question it.

Senator SPECTER. You say you wouldn't question the accuracy of your annual report?

Mr. RADER. No, I wouldn't.

My question is in the interpretation of the heading under which it is printed.

Senator **Specter**. Mr. Rader, is it true, as has been reported to us, that there has been a substantial deinstitutionalization of status offenders and that you have become concerned about the costs of operating the institutions and wanted to increase institutionalization of status offenders because that allegation has been brought to our attention and you personally wanted to keep the institutionalization at a higher figure because of the cost?

Mr. **Rader**. That is absolutely not true, sir.

Senator **Specter**. Mr. Rader, when your deposition was taken in the *Terry D.* case, I refer to page 179, there is reference here to—lines 13 to 15.

"Run the population down in the institutions out there to where it became—it came very near to just having an absolutely legislative rebellion on money."

Mr. **Rader**. Senator, that, put in the proper context, is true. We were in the process of dismantling and giving one institution away, at Taft, and we were in the process of building a new institution across the road, and I don't think that we should ever put those children out until they have proper placement. As bad as institutionalization is, and as much as all of us abhor it, it sometimes is better than what we see over the country by unprofessionals who are trying to manage some of these homes and we buy only the best care as determined by our child welfare division.

I remember that statement very definitely, sir.

Senator **Specter**. And that statement does not reflect an attitude on your part to keep the institutionalization at a high figure, to keep the funds coming?

Mr. **Rader**. No, sir.

Senator **Specter**. On the subject of institutionalization, versus community care, referring to the testimony of Dr. Baumberger, there is a chart. Oklahoma Association of Youth Services. There is a box which says, "Since 1977, funding for youth service centers has not increased, essentially resulting in a decrease of centers, shelters, and services. In addition, demand for youth service workers has increased in all sectors, creating a shortage of qualified personnel."

My question, Mr. Rader——

Mr. **Rader**. What document are you reading from, please?

Senator **Specter**. This is from a printed attachment which was submitted of Dr. Baumberger's——

Mr. C. **Miller**. Can you give me the page?

Senator **Specter**. Page 17.

Mr. **Rader**. This is the most recent thing.

Senator **Specter**. Put out by—April 1978, by the Oklahoma Department of Human Services.

Mr. **Rader**. On Page 17?

Senator **Specter**. On the box in the lower right-hand corner?

My question turns on the last answer which you gave about the necessity of having alternative placement to put juveniles in besides institutions; and the question is why, since 1977, when there is a demand for youth service workers and community resources, has the funding not been increased, which has resulted in a decrease in centers, shelters, and services?

Mr. **Rader**. That is a toughie to answer, but I will answer it, and I don't mean to offend anyone. I have great respect for the legislature. They do a good job for us with the funds available. It is very hard to get money for children. We all know that. They don't vote. Repeatedly, I have appealed and I shall continue and right now—I am glad Representative McCorkell has passed his bill. I helped him, the little I could, by supporting him.

There were some legislators that had some question about it, the cost, what it is going to cost to implement the bill and I believe it. I have repeatedly tried to get more funding. I don't say that with disrespect to the legislature. They have a lot of problems. A lot of times they think I am a softie and go overboard with kids and maybe I do. So I have done the very best I can on getting the money.

Senator **Specter**. Referring to this legislation which now requires that a deprived child may not be placed in an institution operated by the department, that will require additional funding by someone.

Mr. **Rader**. I pointed that out. The committee is wrestling with that matter right now. I am sure the legislature will deal with it.

Senator **Specter**. And the statement of public policy, "That public policy of this State," referring to Oklahoma, "is to assure adequate and appropriate care and treatment for any child to allow for less restrictive use of treatment consistent with the needs of the child."

That too will require a significant modification of the kinds of recourses which the Department of Human Services will have to have to carry out that public policy, will it not, Mr. Rader?

Mr. **Rader**. Yes. My estimate is $17 million, $18 million price tag on Representative McCorkell's bill.

Senator **Specter**. Do you think that the activity of this subcommittee and the Committee on Judiciary might have been helpful in focusing public attention, in getting passage of this legislation?

Mr. **Rader**. Yes, I do indeed. I appreciate it.

Senator **Specter**. The State of Oklahoma has not been a participant in the Juvenile Justice Act, one of six States I believe which have chosen not to obtain Federal funding because Oklahoma did not want to satisfy the requirements of that act. That is correct, isn't it?

Mr. **Rader**. That is correct.

Senator **Specter**. Why is it, Mr. Rader?

Mr. **Rader**. That is not in my department, as you probably know.

Senator **Specter**. But it is close enough to your department so that you would have had some knowledge and some influence on it. It has been reported to me that the State of Oklahoma made that judgment on the grounds that it would have been too expensive to comply with the Federal standards, considering the amount of money which Oklahoma would have gotten from the Federal funding.

Is that essentially correct?

Mr. **Rader**. I did not participate in that decision.

Senator **Specter**. But the State of Oklahoma did not participate in the——

Mr. RADER. There are people in the room this afternoon who did participate. I did not. I never attended a hearing.

Senator SPECTER. If it had been left up to you, would the State of Oklahoma have participated in that?

Mr. RADER. I don't know for sure, but I will say this:

I have never been accused of turning down Federal money.

Senator SPECTER. Well, have you been accused of turning down Federal money that might have cost you more?

Mr. RADER. Yes, sir.

Senator SPECTER. That is the essential question. The Federal money doesn't pay for everything.

Mr. RADER. No. It is seed money. It leads the way.

Senator SPECTER. It helps some, but the information which has been presented to me is Oklahoma didn't take the Federal seed money because Oklahoma didn't want to pay the balance to comply with the Juvenile Justice standards which are present in the Federal legislation.

Mr. RADER. I believe that. I haven't seen it but I believe that is probably right.

Senator SPECTER. Be it in a written report or whatever, it is an accurate conclusion, correct?

Mr. RADER. Yes, to the best of my knowledge.

Senator SPECTER. One of the things——

Mr. RADER. I want to print out again that I didn't have anything to do with the decision. I am not one to outguess the people.

Senator SPECTER. I understand.

But one of the things that may come from these proceedings is, based on the wisdom and experience you have and your recommendation and your feelings and other factors, may bring about some significant modification.

One of the things which the Congress has to decide, the Congress will have to decide if it chooses to exercise its rights, in my opinion, to impose a requirement that a—a minimum requirement that there be segregation, that there could not be that you have status offenders and adjudicated offenders in the same institution.

Mr. RADER. I would welcome that.

Senator SPECTER. I am interested to hear your view on that.

Mr. RADER. That comes before the Congress, I would be interested for it.

Senator SPECTER. You shall be invited.

An inbetween place might be that for any State that did not comply—there is a certain reluctance on the part of the Congress to hand down an absolute requirement because of the feeling that significant latitude, to the extent possible, be left to the States.

For example, on the Office of Juvenile Justice and Delinquency Prevention Act, an intermediate step might be to say that funds which a State might receive under title XX, or some other program, would be suspended if the State did not——

Mr. RADER. We do have that type of legislation.

Senator SPECTER. Would you be in favor of making it so expensive for a State not to participate by cutting out other Federal funds that the State would be induced to participate in voluntarily?

Mr. RADER. I am not prepared to testify.

Senator SPECTER. We may give you some time to think that one over before we ask you to reply.

I have a great many more questions. Let me just ask you one more question before turning it over to Senator Nickles, Mr. Rader.

We have obtained copies of literally hundreds of reports where children in the institutions of the Department of Human Services complain about serious and wide-ranging abuse. Our investigators have been told that many juveniles in those institutions do not report abuses because they do not know about the advocate defender program and do not have confidence in the program or are discouraged from utilizing that program.

In July 1981, when your deposition was taken in the *Terry D.* case, you appeared to regard the reports of abuses as simply isolated occurrences. We would be interested to know what is your current view on that subject.

Mr. RADER. Well, the number of cases that we handle, the number of child abuse cases that the department handles overall, they are very minimal. But there shouldn't be one, I agree with you. We strive for perfection.

Senator SPECTER. Do you think the problem is sufficient to require some remedial action?

Mr. RADER. On whose part?

Senator SPECTER. On the part of your department, on the part of subsequent legislation, Federal legislation or State legislation.

Mr. RADER. I think we have taken the proper steps. I am not saying we couldn't improve on them. They are constantly under consideration, and I certainly wouldn't be adverse to continue taking that.

Senator SPECTER. You would not be adverse to continue taking action?

Mr. RADER. No, sir.

Senator SPECTER. And the other note is that since 1974 Oklahoma has bypassed almost $45 million, $4.8 million in JJDP Act formula grant money, and Oklahoma has taken a limited advantage of the categorical grant program of $310,000 in 1979 for the restitution program.

Are you familiar with those programs, Mr. Rader?

Mr. RADER. Not entirely, sir.

Senator SPECTER. Senator Nickles.

Senator NICKLES. I have a couple of questions and I would like to make a comment concerning the funding.

I do not support the congressional use of influence to force the State of Oklahoma to comply with a program that we deem necessary. I looked at the funding and the institutions. Mr. Rader, am I correct that the total funding last year was $35 million for these institutions?

Isn't that correct? I got that from your annual report.

Mr. RADER. I would have to refer to the report. If you took it out of the annual report, it is correct.

Senator NICKLES. I would hope that it would be. I am sure it is.

Looking at that figure and also at the occupancy of approximately 560, that works out to be $60,000 per child. I think the State of Oklahoma is pouring a tremendous amount of money into these homes. I don't think that the problems we are looking at are a shortage of funds. I think the State legislature has been putting adequate funds into the institutions and has indicated appropriate priorities for their use.

I think we are looking at some individuals or some cases in which management problems have developed. You have heard lengthy testimony today and yesterday——

Mr. RADER. I did not hear the testimony yesterday.

Mr. NICKLES. You didn't?

Mr. RADER. No, sir.

Senator NICKLES. Did you attend the testimony that we had last—when—February?

Mr. RADER. No, sir.

Senator NICKLES. Have you heard anything about the testimony?

Mr. RADER. I have heard a lot of discussion about it.

Senator NICKLES. I expect you probably have. I am looking at your letter that you wrote to Strom Thurmond, who is chairman of the Senate Judiciary Committee. In the third to last paragraph, it says:

> In most instances where force is involved, the circumstances justify it. In a few situations where the employees acted improperly, the record reveals that the department has appropriate procedures to respond and that it has responded effectively.

Mr. RADER. Yes, sir.

Senator NICKLES. Do you still abide by that statement?

Mr. RADER. Yes, sir.

Senator NICKLES. You heard me make——

Mr. RADER. That was a true statement at the time I wrote to Senator Specter.

Senator NICKLES. That was to Strom Thurmond, written May 12. I think that is the letter in which you were requesting that we not have this hearing.

The point I made earlier when I discussed four or five employees who were involved in some very serious allegations was that the department acted too slowly. In some cases I am referring to sex crimes, physical abuse, and selling drugs—I am talking about serious things, not petty misdemeanors. I think the department acted improperly, acted very slowly. In some cases we are talking about years before anything was done. Coincidentally, in almost every case I brought up at the February hearing, those individuals either were terminated right before or in a couple of days after that hearing. Now every one of them has been reinstated.

Mr. RADER. All that have been reinstated have been reinstated by the Oklahoma Merit System in Oklahoma.

Senator NICKLES. Does the State appeal any of those merit findings?

Mr. RADER. No, we haven't appealed them as of yet.

Senator NICKLES. Why hasn't your department appealed a case in which you have a person that has offenses ranging from oral sodomy to breaking arms and physical abuse? Why hasn't the department appealed those cases and findings from the Merit Board?

Mr. RADER. Well, the chairman is in the room and we have had that under serious consideration.

As was pointed out, the administrative procedures have been followed. I have been one of those in the department that has been very critical——

Senator Nickles. Critical of what?

Mr. Rader. Critical—will you please let me finish my statement, Senator—of the merit system, because we have got the superintendent and the employees throughout the State jittery about the fact that they can't get their reasons sustained. I am not trying to indict the Merit Board. I think, frankly and truthfully speaking, I have been one of the severe critics. Not against the individuals, but as a matter of public policy. That goes a little bit beyond me.

However, I have seriously considered taking one of these cases and bringing it to the district court.

Senator Nickles. Where are you taking those cases?

Mr. Rader. They have to be appealed through the courts. I am not able to tell you this morning whether I will recommend to the Commission whether we will or we won't.

Senator Specter. The activities of the Senate have been modified since I talked about the live quorum call. A vote just rung, which means Senator Nickles and I have to be on the floor at least to vote about a minute to 1:00. We will rearrange our afternoon schedule. I have a full line, but I will be back here as will Senator Nickles at 2:30 and we will resume at that time. We would appreciate it if you would organize, Mr. Miller, Charles Miller, a presentation so that we can conclude as briefly as possible, hopefully within an hour or so.

We will give you as much time as we can.

We are not adjourning now. We will hear the State representative before we adjourn. We have already made that obligation.

Mr. Rader, if you will sit back and when we resume at 2:30, we will pick up at this point with Senator Nickles questioning Mr. Rader.

Mr. C. Miller. In the interest of time, I will forgo reading the written statements but there were some points raised and I would like to present the witnesses to answer them.

Senator Specter. If we cannot finish within an hour—but we are really stretching it.

Mr. C. Miller. We will try to cooperate by just giving you the statements on the new stuff.

Senator Specter. Will you be seated, please, and let us know your full name.

Mr. McCorkell.

STATEMENT OF DONALD McCORKELL, A REPRESENTATIVE IN THE OKLAHOMA STATE LEGISLATURE, HOUSE OF DELEGATES

Mr. McCorkell. Don McCorkell. I am a member of the Oklahoma House and chairman of the Criminal Jurisprudence Committee.

Senator Specter. Representative McCorkell, we are pleased to have you here. We appreciate your taking the time to come. I don't think you have to be sworn. You will not be a fact witness.

Mr. McCorkell. I don't think so, but if that will be helpful, I am glad to do it at any time.

Senator SPECTER. I think that is unnecessary. We welcome you and are looking forward to your testimony.

Mr. MCCORKELL. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, I wanted to share with you, because of the fact that I assume that the investigation of the committee is one to generate public policy on the Federal level and not just to simply look at incidences reports and share with you some of the work of our committee over the past year and a half.

Our committee decided about a year and a half ago to devote a substantial amount of time to the juvenile justice system in Oklahoma, and the result of that investigation, Senators, is House bill 1468, which now lays on the Governor's desk. In that bill, I think we address a member of fundamental issues that have been not only in this investigation but in the investigation of our State and the lawsuit, *Terry D.* v. *The State of Oklahoma.*

So that all three of those things have been going on simultaneously. I think that legislation addresses a number of those issues.

I would like to make two or three points.

No. 1, I am of the opinion that in the famous words of Pogo, we have met the enemy and he is us.

We certainly have substantial problems in our institutions and in our care-providing system. I would suggest to the committee that those problems are not unique to the State of Oklahoma. I think anybody that has dealt with institutional care of children or mental health or whatever is well aware of the substantial problems in that type of care delivery system throughout this country and I would urge this Congress and the Senate to devote a considerable amount of time to addressing that issue.

At the same time, I think that the Senate has taken an affirmative step that can be an example for the rest of the country. We have set up an oversight system. We have, frankly, I must say—I have felt that we were being a little bit too defensive regarding the individual problems. We should admit to them and put them behind us. The department has had to deal with that. But they also worked very diligently in developing these answers and the department officials that are here today to testify are among those that are advocates of some of the solutions that we set out in regard to the institutionalization.

So I think that is fair to say of them.

I would urge you to continue your look at juvenile justice, not only in the State of Oklahoma, but throughout the country. I would also urge you to look at issues in regard to Federal funding.

It is true, fortunately, that Oklahoma is in a more favorable situation than a number of States in this regard. For example, the Youth Services program, which admittedly we as a State did not pick up and increase the priority, as I personally advocated, and I think we are now going to change and move in a positive direction in that regard—it is also true that funding at the Federal level has been reduced for a number of those programs, and I would ask the committee to look into the other issues in relation to Federal regulations, but in regard to the question of Federal dollars, not only for the State of Oklahoma, but the States which are indeed substantially extract, to maintain even a minimum level of human services in these areas.

I would suggest also, and I will leave copies of the bill—I don't know if you have the final version. But we do have an oversight office set up independently to examine, inspect and subpena all of the records you want for an independent office for examination of juvenile justice system. We have not only raised the issues here and in the lawsuits, but also removed juveniles from county jails, for pretrial purposes, by July 1, 1985.

Senator SPECTER. Mr. McCorkell, does the bill permit secured detention of status offenders?

Mr. McCORKELL. It permits—there is a provision in there in regard to a rehabilitative facility for status offenders and a limited security facility. What it says is maximum capacity of 20, not using locked rooms, not using fences and so forth. This was as a result of the discussion that we had.

Senator SPECTER. How does the concept arise of rehabilitating status offenders?

Status offenders is defined as not an offender.

Mr. McCORKELL. I appreciate the language problems.

Senator SPECTER. How can you rehabilitate someone who hasn't done something wrong?

Mr. McCORKELL. I think treatment in regard to people that have particular behavioral problems is the question. I might mention to the chairman and the committee, a lot of times in Oklahoma, like any other State, we do not necessarily have truth in adjudication. You have cases that combine all three, deprive children, an INS or a delinquent child. And sometimes we get adjudication of an INS—of a child that has substantial behavioral problems. But the focus of the bill is to focus on treatment and focus on a positive approach for all children in least restrictive environments. It is not to label a child, in essence—mental health labels, that the child needs treatment. That can be a problem if misused. The focus we have placed in legislation is, we want to minimize the use of institutions, that being institutional facilities with an excess of capacity of 20 beds, and we have limited it to children in need of residential mental health treatment as defined by the bill, or chronic dangerous delinquents, either habitual delinquents, or dangerous.

Senator SPECTER. We have to go because we have to vote in a moment, a situation you are intimately familiar with.

I would like to say, when you comment about the problem not being limited to Oklahoma, I agree with you totally. This is not a problem peculiar to Oklahoma. There are 35,000 status offenders in this country. I have not had an occasion to express my personal regard for the State of Oklahoma. I was born and raised in the neighboring State of Kansas and attended the University of Oklahoma from 1946 to 1947 and have a very, very high regard for the State of Oklahoma and have intimate contacts with it and have firsthand knowledge of the very progressive and forward-looking nature of the State. So we are not looking at a problem which is unique to Oklahoma. This is a matter of national concern.

We have a problem with the room. This room is obligated at 2:30 on and there will be a note posted on the door. We will seek another room and I believe we will find one and there will be a note stating in which room we can convene at 2:30.

[Whereupon, at 12:55 p.m. a luncheon recess was taken until 3:10 p.m. this same day.]

AFTERNOON SESSION

Senator **SPECTER**. Ladies and gentlemen, we shall resume the hearings.

As announced before lunch, we were scheduled for 2:30. There was supposed to be a vote first at 1 o'clock and then postponed until 2:30. We have been waiting, Senator Nickles and Senator Boren and I. But Senator Boren notes there was a live quorum call which means we will have to depart in the next 15 or 20 minutes. This is what we said this morning. It is very uncertain when we go into afternoon sessions.

I think we should proceed and go as far as we can and then decide at a later time whether statements will be submitted for the record or whether we convene.

I was talking to Charles Miller, Esq., counsel for the department on that subject, but we will have to do the best we can. At the point of interruption, Senator Nickles had the floor.

Senator **NICKLES**. Mr. Rader, in your letter to Senator Thurmond, you said that in most instances where force is involved, the circumstances justify it. In the few situations where faculty employees act improperly, the record reveals that the department has appropriate procedures to respond and that it has responded effectively. Do you still think that is the case?

Mr. **RADER**. Senator Nickles, I am going to have to respectfully permit Chase Gordon to answer that question.

Senator **NICKLES**. I see that the letter was signed by you.

Mr. **RADER**. I believe in the content of that and I do now.

Senator **NICKLES**. Did Chase Gordon write the letter?

Mr. **RADER**. No, sir, I did.

Senator **NICKLES**. Earlier today, Mr. George Miller said in his statement that the information available to us indicates that the OSBI has found no support for the allegations pertaining to the juvenile programs operated by the department.

Do you agree with that statement?

Mr. C. **MILLER**. Senator Nickles, earlier today we had some discussion on that subject and Senator Specter asked me if I would resolve the discrepancies on that and I said we would try to do so and I said we would try to make a complete record.

Senator **NICKLES**. Mr. Rader, do you think that there has been substantial abuse, whether it be physical abuse, sexual abuse, or other types of abuse, by some State employees in the past in the institutions?

Mr. **RADER**. Senator, there has been some and there always will be and we will deal with them equitably and fairly when they come to my attention.

Senator **NICKLES**. There were a few cases that I brought out earlier, in which serious incidences did occur and it took a long time for those employees to be terminated. We then discovered that after they were terminated, in most cases, sometime this year, that they were reinstated sometime this year.

Do you agree with me that something should happen either administratively or through the merit system, that we——

Mr. **Rader**. I agree with you. The record speaks for itself, Senator Nickles, and I will do everything within my power to work out the merit system. But I am not a member——

Senator **Nickles**. Do you foresee the department going before the merit board and appealing some of their cases in which they reinstate some of these employees.

Mr. **Rader**. I can't respond to that today without counsel.

Senator **Nickles**. You have counsel present now.

Mr. **Rader**. We have not been discussing that point.

Senator **Nickles**. You have several distinguished members of the Bar with you today, and I don't know if they are trying to help you or hurt you.

Mr. **Rader**. I don't know.

Senator **Nickles**. Is it true that the department has never appealed a decision?

Mr. **Rader**. Senator, I testified to that two or three times. No; we have not.

Senator **Nickles**. Do you think you will in the future?

Mr. **Rader**. I don't know.

Senator **Nickles**. I would hope that you will because if not I think we will continue to see these problems arise.

Mr. **Rader**. Senator, you were in the Oklahoma Senate a long time. This problem was there then.

Senator **Nickles**. I was in the Senate for 2 years and I hope that the Oklahoma Senate and the legislature, will make those statutory changes where appropriate.

Mr. **Rader**. Let's you and I recommend them together.

Senator **Nickles**. I think that if the two of us were making recommendations, we might get have some action.

Mr. **Rader**. Be glad to have your assistance.

I solicit it now.

Senator **Nickles**. At the same time, I would recommend strongly that the department appeal cases in which the Merit Board reinstates individuals who, in your opinion should not be reinstated. I recommend strongly that you take a strong position in appealing those reinstatements in the future.

Mr. **Rader**. I will solicit your support.

Senator **Nickles**. You have my support. I appreciate your effort in doing that.

Let me ask you a question. The superintendent of Whitaker had recommended that Mr. C. be fired. He is the person who allegedly broke two arms, one in 1968 and one in 1981. He was, by the superintendent's reports, recommended to be terminated. It has come to our attention that he was not terminated, but he was allowed to resign and that that decision came not from the superintendent but from your office.

Mr. **Rader**. Senator Nickles, Mr. Gordon, who was then supervisor of the division, is here, and I respectfully request that he be given an opportunity to tell you what he based his decisions on.

Senator **Nickles**. Are you saying Mr. Gordon made that decision, not yourself?

Mr. **Rader**. Sure, certainly.

Mr. **Nickles**. Did Mr. Gordon make the decision?

Mr. **Rader**. Well, I suppose he did. I don't recall the specific instance but Mr. Gordon was in charge and he did a good job, in my opinion.

Senator **Nickles**. Was it his decision that Mr. C. would be allowed to resign?

Mr. **Rader**. We will let Chase testify to that.

Senator **Nickles**. How many people do you have in your department?

Mr. **Rader**. Well, I think at the present time, 14,000.

Senator **Nickles**. I believe very strongly that an overwhelming majority of those people are outstanding employees and do a fine job and serve the State, the department, the children of the State of Oklahoma very well. Yet, you allow those employees who are known to be problems and who do not serve the people——

Mr. **Rader**. It is our objective to weed them out.

Senator **Nickles**. They should be removed. If they are allowed to stay that sets a poor example for the rest of the employees who see them get away with that type of activity.

Mr. **Rader**. If it is brought to my attention, they will not be permitted to let them get away with it and I am spending more time on that.

Senator **Nickles**. Two of the individuals that I discussed earlier in the day, had pretty extensive criminal records, dealing with sex abuse and other serious crimes, on their the records before they were hired.

Does the department now have means to prevent their employment into positions dealing with children?

Mr. **Rader**. Again, I would have to—I would have to review the record. At the moment—Mr. Gordon and the department employees know those persons; I do not.

Senator **Nickles**. You didn't hire them?

Mr. **Rader**. Not personally.

Senator **Nickles**. Do you hire any of the staff?

Mr. **Rader**. No, sir.

Senator **Nickles**. Does the department plan on having a policy to provide some type of background check before they are employed in areas involving children?

Mr. **Rader**. We are in the process of developing a check.

Senator **Nickles**. You are in the process of developing one and in the future will you implement it?

Mr. **Rader**. One of the department heads that is here today can speak to that point and will.

Senator **Nickles**. I visited three of the institutions and one of the complaints a superintendent made was the fact that he didn't hire, he didn't fire, and he had very little control over the process, although he was the superintendent of the school. He said most of those decisions were made in Oklahoma City.

Mr. **Rader**. Mr. Garrett is here and he is prepared, I think——

Senator **Nickles**. Who is here?

Mr. **Rader**. Mr. Garrett.

Senator **Nickles**. What is his position?

Mr. **Rader**. He is the Inspector General.

Senator **Nickles**. Do the superintendents of the institutions have the authority to hire or fire the employees in their schools?

Mr. **Rader**. Their responsibility is to recommend firing.

Senator **Nickles**. Is the final decision on termination made in your office?

Mr. **Rader**. It is made by the Merit Board and the personnel division. In my name it is done, yes. That power is delegated to responsible officials.

Senator **Nickles**. The responsibility to hire or to fire, is not made by the superintendent, but in the Oklahoma City office of DHS?

Mr. **Rader**. Yes; that is right.

Senator **Nickles**. The decision is by your office, not the Merit Board.

Mr. **Rader**. That is right.

Senator **Nickles**. Do they have the authority to suspend employees?

Mr. **Rader**. The superintendent?

Senator **Nickles**. Yes.

Mr. **Rader**. He has the authority and responsibility.

Senator **Nickles**. I understand that your department has conducted a pretty extensive investigation on all of the allegations that have been made by this committee.

Mr. **Rader**. Yes. You are referring to the *Terry* case?

Senator **Nickles**. Yes.

When did your department start investigating those allegations?

Mr. **Rader**. Those specific allegations—I don't care to deal with that. I don't think it is proper. We could get into an argument. Chase can speak to you on that point and what I had to say at the time of my deposition speaks clearly at that point. I refer you to it.

Senator **Nickles**. The department has been conducting an investigation on many of these allegations for some time.

Mr. **Rader**. Yes.

Senator **Nickles**. Has it been 2 or 3 years in some cases?

Mr. **Rader**. I suppose.

Senator **Nickles**. Realizing how serious some of these allegations were, in the *Terry* case, how long has it been under investigation?

When did the allegations first come from legal services?

Mr. C. **Miller**. That suit was filed in 1978. We were not counsel at that time. I believe that during the course of the suit, at depositions, as it went along, certain of these issues came up.

Senator **Nickles**. Some of the allegations made in that case were very strong and I assume that the department has been conducting an investigation to determine the truth of those allegations from the time it started.

Mr. **Rader**. Sir, I don't know what is your point. If this is an attempt to cross-examine——

Senator **Nickles**. I am not trying to cross-examine. I am trying to find out how much effort the State has made to work out this case.

Mr. **Rader**. We have made and are making great strides, you know, and I would ask you to read what I had to say at the time of the deposition.

I will tell you, there are two sides to this thing, and thus far we have had no opportunity whatsoever to put our side of the case on. It is promised, I have a letter here this morning and I refer Senator Specter to the last paragraph of the letter——

Senator **Nickles**. I have read your letter and I appreciate that.

Let me ask you another question.

Did you ever recommend or suggest that OSBI be called before this year?

Mr. **Rader**. In individual cases, yes, occasionally. But I recommended and asked the Governor to call them in immediately on this matter, when this matter came up.

Senator **Nickles**. When this matter came up this year?

Mr. **Rader**. Yes. As they come up, I refer them to him.

Senator **Nickles**. Before the general investigation, had you called them in on some individual cases?

Mr. **Rader**. Yes; that is true, Senator.

Senator **Nickles**. Were they called in on the case involving Mr. C.?

Mr. **Rader**. I don't recall.

Senator **Nickles**. That is the individual who was involved with the sodomy case. It is a pretty serious case.

Mr. **Rader**. I don't recall, sir.

Senator **Nickles**. Mr. Chairman, I have no further questions. We have a vote on the Senate floor, now.

Senator **Specter**. Yes. We are now about 10 minutes into the vote. We are going to have to go vote now. If you wait here, we will resume, if we can, and I think we can. I have matters, amendments, which I have proposed and I may have to be on the floor, but we will be back as soon as we can.

So, please just wait.

[Recess at 3:37. Back at 4:05.]

Senator **Nickles**. We will begin again on the hearing.

I think Senator Boren has some questions that he would like to ask of Mr. Rader.

Senator **Boren**. That is right. I guess we have to gather everyone up at the table. I understand Senator Spector is working on legislation. For the benefit of our audience, it is the urgent supplement appropriations bill which is up on the floor. Earlier this afternoon there were well over 100 amendments pending to it. We are trying to take care of it before we recess because the bills can't be paid by some of the departments unless we get it passed. It is important.

I am sorry we have been interrupted, but for that business to be taken care of, we have to attend to it.

I would like to turn back to some of the issues that have been brought out.

Our concern here is to try to improve services for juveniles. That is the aim of all of us. If we can learn anything from what we have heard, I think we should do so. I want to touch on one item that has been of concern that Senator Nickles mentioned a while ago. That is the problem of the merit system, the merit system not sustaining the dismissal of some of the department's employees.

Senator Nickles was disturbed, as I was, that there have not been appeals to some of these cases, which seem rather strong and also I am interested in how many problems that the State board may have in terms of dismissing employees that have met the standards.

Mr. Rader, how much of a problem is it? Do you have the department reviewing your policy in terms of appeals from the merit board?

If you do appeal, to whom do you appeal?

Mr. **Rader**. Well, Senator, if I may make personal comments concerning our relationship with you as Chief Executive and when I was an employee under you, you no doubt recall that I discussed this problem with you at some length. You reorganized the system, reappointed—I don't know whether you call it commissions—

Senator **Boren**. Commission, State Personnel Board actually was the title at that time.

Mr. **Rader**. The gentleman from Seminole was made Chairman. I don't recall his name.

Senator **Boren**. I can't recall either.

Mr. **Rader**. But you appointed him and he worked pretty well for a while. You know, there is more and more growing concern on whether somebody's rights have been violated. I think at that time, the employees of the board may have gone overboard, so to speak. It creates this kind of situation. Naturally, with the subject, with various department heads throughout agencies and other agencies, the complaint is general, I would say, among the agencies. But they have their problems, too.

But I have not asked counsel as—I don't know where you would appeal, whether it goes directly to Court——

Senator **Boren**. Who is the person in the department who would know?

Mr. Gordon, could you answer that? I am interested in pursuing this, because if the merit system is a problem in terms of ability to terminate personnel, one of the problems we have at all levels of government is the difficulty of terminating people that we feel do not meet adequate standards.

Do you deal with the department on these matters?

Mr. **Gordon**. No; I don't. But I have had an opportunity to review it. Mr. Rader had me operating the juvenile program. Naturally, I became involved with it, since many of my recommendations and his final decisions were overturned by the system.

I think one of the basic problems here that you are dealing with on an appeal from the merit board is that it is an appeal on record, and in fact, there is very little record to appeal from.

Senator **Boren**. You have to appeal on the record before merit board?

Mr. **Gordon**. No. You appeal on the record from the merit board to the District Court. So you really don't have a new hearing. If there is not evidence in the record on which there has been an error of law made, or an abuse of discretion by the trial examiner, then you don't have an appeal and you will be turned down and this is based on past case decisions interpreting this kind of administrative action and appeal from.

So we are kind of limited.

On top of that, and Senator Nickles, I know you have had a lot of concern and I understand it, but what has happened on these cases that we have been overturned on, in fact we get in there with one student testifying against an employee and there is no other evidence to be able to bring in because the other students either refuse to testify or they are gone from the system or they are a.w.o.l. or whatever they may be. There can be a number of reasons.

So you put on every bit of evidence you can put on but it is a question of believability.

Senator NICKLES. Mr. Gordon, in reference to the four individuals I discussed who were reinstated this year, could the department increase their efforts to investigate the wisdom of allowing those reinstatements?

It might be more effective to have a superintendent make a charge against an employee instead of having a student make the charge. I believe if it were a superintendent making these recommendations, it might carry more emphasis with the merit board.

Mr. GORDON. The difficulty is that under the merit system the hearing examiners are governed by the rules of evidence as if in court. Unless you have firsthand knowledge—in other words, you saw it and witnessed it yourself, you can't testify about it. So we are reduced down to those parties who are actually aware of what has occurred here.

Senator NICKLES. Is that statutory as far as the Merit Board is concerned?

Mr. GORDON. As far as I know it is.

Senator NICKLES. Have you discussed the possibility of going to the legislature to make the law more feasible so you could terminate employees that were causing problems?

Mr. GORDON. I might be mistaken, this recent change that has occurred has occurred within the last 2 years as an overhaul of the system is effected.

Senator NICKLES. We discussed this with the Merit Board, and although I don't have the statistics, they affirm that the department has never appealed a ruling of the Merit Board. In many cases, other agencies or groups have appealed decisions and been successful.

However, the Department of Human Services hasn't attempted to appeal yet.

Mr. GORDON. I am not certain that that is exactly true.

Senator NICKLES. Could you give me the statistics?

Mr. GORDON. Again, I talked to some of the attorneys who handled our personnel matters and in at least the child area, they do recall appealing one case and it was a—we appealed it on the grounds that we tried to terminate this party.

The merit system found that the evidence sustained us but reduced the finding from termination to suspension. We appealed on that ground, but the district court ruled that that was within their prerogative to do that.

Senator BOREN. I guess you are saying you can only appeal as to errors of law by the Merit Board.

Would it be helpful or worth consideration, to think of a trial de novo on appeal with the district court?

Mr. GORDON. I think it would put it into a different picture, yes. There were many times, if you thought you had to deal only on whether the evidence was sufficient or not and have that evidence heard from a judge, he might well consider it.

Senator **Boren**. It is a very sensitive area. When you have personnel dealing with children, you want to make sure you have the right personnel. It is critically important. It is just like you want to have personnel in a hospital dealing with a sick person. You want to make sure they are competent and take good care of the patients.

I would urge that this be considered and would hope that you would take that back to perhaps the general counsel of other State agencies to talk about some potential changes of law in that area.

Mr. **Rader**. Senator, may I make a comment?

Now, the Senator is mindful of the problem and has reorganized, appointed Mr. Thomas as the new administrator or director—I have forgotten which they call it. So I am sure it is just one of those things. Not that we are afraid of dismissal, to challenge it——

Senator **Boren**. In your opinion, the Governor is now aware of this?

Mr. **Rader**. I know the Governor is aware of it. He is a very fine, conscientious person.

Senator **Boren**. Because of the time situation, Mr. Chairman, there were a couple of other major considerations of concern to me. What we want to draw out of this hearing is something that will be of benefit to juvenile programs, something we might look at in terms of Federal recommendations, Federal standards, changes that should be adopted, not only in Oklahoma but perhaps elsewhere.

I am concerned about the number of children that we do have institutionalized. Mr. Baumberger, I believe, earlier in the testimony this morning, mentioned that we had 95 percent of those young people who we provide services to that are not institutionalized. This is a sharp difference in terms of what I had felt had been testimony before the committee earlier.

As you know, I am a strong advocate of group homes and other approaches. I wonder, what are we doing, what are we doing to try to minimize the number of young people we put in these large institutions? What other kinds of programs are we developing, be they group homes or other programs.

Could you update us on what we are doing to try to improve?

To me, much of this hearing has been an adversary hearing and what we ought to be interested in is what we can do to improve the care of juveniles, what we can do to upgrade personnel.

Could we get in Oklahoma a more homelike approach? Are we or are we not in Oklahoma trying to develop alternatives to large institutionalization?

Mr. **Rader**. Senator, you put your finger right on the head of the nail. That is all we have spun around on here for 2 days, an adversary proceeding, and I thought we were all up here to work for the benefit of the children, not to prove whether some investigator was right or wrong. I think we ought to move on.

If you would permit me, if you would let Chase Gordon tell you what we are doing, I am sure he will answer that question to your satisfaction.

Senator BOREN. I would like an answer to that question. I think that is the most important question because the Oklahomans are watching these proceedings. They are calling me on the telephone and say, what are we going to try to do to improve the care of individuals? Are we locking them all up in institutions? I think it is very important that we address that question because that is the kind of policy question we ought to be looking at.

Mr. RADER. I agree.

Senator NICKLES. Mr. Rader, if you would stay. Mr. Baumberger, I think you would like to participate in this with Mr. Shafer, Mr. Lietka, and Chase Gordon. Could we have all of the department officials remain assembled here?

Senator BOREN. If you could form a panel, and that way if we want to add a point in trying to improve the system, we have you here, and what you think we need to do.

Senator NICKLES. All those individuals, please come up. If you have not been sworn in please stand and I will do that now.

[Witnesses sworn.]

TESTIMONY OF DAVID A. SHAFER, COORDINATOR OF ACCREDITATION, DIVISION OF INSTITUTIONS AND COMMUNITY SERVICES FOR CHILDREN, OKLAHOMA DEPARTMENT OF HUMAN SERVICES; JOHN LEITKA, ASSISTANT ADVOCATE GENERAL, OKLAHOMA DEPARTMENT OF HUMAN SERVICES; HERSCHELL DANEY, SUPERINTENDENT, DIAGNOSTIC AND EVALUATION CENTER, OKLAHOMA DEPARTMENT OF HUMAN SERVICES; HON. FRANK KEATING, U.S. ATTORNEY, NORTH DISTRICT OF OKLAHOMA; AND DR. RICHARD P. RETTIG, CONSULTANT, OKLAHOMA DEPARTMENT OF HUMAN SERVICES

Senator BOREN. If we might, I suppose, Dr. Baumberger, you are the director of the childrens services.

Dr. BAUMBERGER. At the present time I am, sir.

Senator BOREN. Could you respond to this:

What progress are we making and also I would like to know where you think we ought to do more, because I think the last thing we ought to do, and I hope everybody at the table—put aside all idea of trying to defend each and every action. Some mistakes may have been made. Some areas need to be corrected. Let's hear what you are doing and what you intend to do and what you think we ought to do more in terms of improving the system and what we can do.

Dr. BAUMBERGER. I think it would be more than optimistic to say that any State has a perfect system, particularly in dealing with volatile, aggressive at times, certainly disturbed, and if not aggressive, at least behaviorally management control problem youths and adolescents. But Oklahoma has one fine program, and I am here to say that I am proud of Oklahoma's program for children and youth. It is a pleasure to be proactive instead of reactive in this forum. I never thought I would be at a Senate hearing in my life, but here I am.

But we have a good program in Oklahoma, and we could do better.

Senator BOREN. What are we doing, in terms of incarceration and alternatives to institutionalization?

Dr. BAUMBERGER. There are several issues that have been brought up here that I would particularly want to speak to and since you were Governor, Oklahoma has applauded the juvenile justice delinquency prevention goals since its inception. The institutionalization and diversion—since 1976, since the creation of the court related SJR 13, community services—we have continually provided community-based services for youngsters prior to their introduction into the court system and then into adjudication for disposition to commitment to institutions. But about two-thirds of the youngsters have been diverted away from institutionalization, Senator.

Senator BOREN. How many young people each year have some contact with the juvenile services of the State of Oklahoma?

Dr. BAUMBERGER. What we have is a combination of services in Oklahoma, private and public, community, private and public institutions, and in that form, 45,000 to 55,000 youngsters a year are seen. Of that number, those who get committed to public institutions, number about 650 per annum.

Senator BOREN. So 650 out of 44,000 or 45,000 or 50,000 end up in institutions?

Dr. BAUMBERGER. Yes, sir, in our institutions, public institutions.

Senator BOREN. In public institutions.

Let me ask you, let's take the case of the type of young people that we had testifying yesterday. Let's say that that is a young person who is having problems. Let's say they have not committed a crime but let us say they have a terrible family situation, parents who are abusing the children, parents who are physically abusive. Maybe they ran away from home out of fear of parents or problems in a bad home situation.

Now, what are we trying to do with them? What steps do you go through? What are your preferences in trying to deal with them?

Dr. BAUMBERGER. We are statutorily charged under SJR 13 to provide a diversionary and deflection service away from——

Senator BOREN. What does that mean?

Dr. BAUMBERGER. That means that we don't want them in the justice system. We don't want them to come before the court and get them into institutions. So we purchase service for them in the community.

Senator BOREN. You say you purchase service in private communities?

What kind of service?

Dr. BAUMBERGER. We purchase both regularly established care and we have been party to a confederation, the development of a diversionary program in Oklahoma with youth services for emergency shelters in lieu of jail.

Senator BOREN. You put them in emergency shelters?

Dr. BAUMBERGER. And provide family services, purchased services, to keep them from further introduction into the judicial system.

Senator BOREN. Is the first preference, and should the preference be to try to counsel with the family in order to return the child to their original home? Is that the first thing that should be done?

Dr. **Baumberger**. To maintain the youngster in the home, in the school, or to help assist in finding a job or a skill that would lead to a job.

Senator **Boren**. Suppose that fails? Then what do we try next?

Dr. **Baumberger**. Well, there is counseling with the family in a private setting. Our referral system is such that the youngster may have come to the attention of the court and we divert away from the court to youth services, no adjudication, no formal intake of the court. Here we are with social services, with a contract with the Oklahoma State supreme court, to provide contract services. If the youngsters become intractable, perhaps a different philosophy. The youngster may come back into the court, be brought to the attention of the court, but we still have another intervening variable, and that is to work with the DA in deferred prosecution with that youngster and again keep him from further penetration into the system but still providing some structure in the community under supervision.

Senator **Boren**. Under the Juvenile Justice Act, the Federal Act, are these the same procedures that are followed? Are they similar procedures?

What are we doing in Oklahoma that the act would require—what are we not doing that the act would require?

Dr. **Baumberger**. Well, the act would certainly support what we have been doing that I have testified to so far.

What we are not doing in Oklahoma that the act requires, where we are at variance, is, as you recall, as Governor—the issue of youngsters in jail was the primary issue at the time of the act. We still do not have in Oklahoma, despite our 40 youth services centers, seeing 15,000 youngsters a year, enough of those or enough structured youth shelter services to keep kids out of our adult county jails. Until yesterday. If the Governor signs the bill—we will launch our statewide juvenile detention. Now, that is one of the goals of JJDP and we have not accomplished that in Oklahoma yet.

Senator **Boren**. So one of the areas in your opinion, we have been deficient and should be going into now, and I gather hopefully are doing more if the Governor signs the bill, if it is passed, is in the area of creating enough shelters to maintain juveniles separate and apart from the regular jail facilities?

Dr. **Baumberger**. Yes, and specialized shelters call for administrative-judicial bases. When I say, "we"—the department has been given that responsibility by statute for that detention statewide. But when I am speaking in terms of continuing services, here in Oklahoma, I am not talking about the department. I am talking about public and private organizations working together.

Senator **Boren**. I have to recess just for a minute. Senator Nickles and I are going to take turns and go and vote. I would like to know when I return how many of the juveniles who have shown some signs of improvement are we able to take out of those institutions? If they have made a good record how many can be put back in group homes in the communities? How much of a waiting list do we have and how many would we need to develop in order to take care of the full needs, in your estimation.

I will return right after the vote. We will stand in recess momentarily until some member returns.

[Recess at 4:28 until 4:33 p.m.]

Senator **Nickles**. We will begin again and I apologize to our distinguished guests for the fact that we had a roll call with votes.

Senator Specter will not be back because he is on the floor with amendments he has to the appropriations bill. He hopes to be able to return.

I think we may have lost a number of our panelists.

Mr. C. **Miller**. It is getting late in the day and we still haven't had a chance to present our people and respond to some of our points. I thought we might call on the people to give their statements. I will just call on them to keep things going and move things in order.

Senator **Nickles**. For the record, your statements will be entered into the record in full.

Mr. C. **Miller**. I have already made it clear they will not read the written statements. These statements are responding to matters that were made yesterday. We are relying on the written record. I know you will read those statements.

The first speaker will be Mr. Shafer, who was referred to several times today. He will address the student defender program.

Senator **Nickles**. Mr. Shafer, proceed.

TESTIMONY OF DAVID A. SHAFER

Mr. **Shafer**. There have been a lot of questions and discussion about the student advocate program and I think it is appropriate to tell you how it works, so we have an idea of what we are discussing.

The student defender program is a reasonably recent innovation. I believe you will see in the written statements that it was put in place in 1978. At the time of its beginning, certainly not all students certainly were aware of its existence and its visibility was not consistent. But currently all students, upon arrival, go through an orientation program in which the student defender program is explained. The student defender office is clearly marked on the campus. Each student defender wears an identification tag and each cottage has a clearly labeled advocate defender box, which enables the child to lodge a complaint in writing. The box is locked and the advocate is the only one that carries the key.

Judging from the volume of complaints that we have we had, and I think in the written record you will see, there have been 1,500 over the last 4 years, I think it is safe to say that the students are using it and are well aware of it.

Given the intimacy of the institutional setting, where children and students usually know about everything that is going on, it would be difficult to conceive of a situation where they wouldn't be aware of the existence of the advocate defender.

Senator **Nickles**. When did that program begin?

Mr. **Shafer**. 1978.

There was also discussion yesterday about juveniles making remarks to the effect that nothing is ever done or nothing ever happens after I complain to the defender. The juvenile would only be aware in most cases of an action against an employee if that employee were terminated or discharged. A student wouldn't necessarily realize that an employee had been, say, suspended, or that he had been verbally reprimanded or reprimanded in writing, or that he had been passed over for a promotion or given a salary increase.

While there is discussion ongoing among our staff about how much students should be able to know about personnel actions, we take action and do not necessarily notify the students of what action that is. So that could explain why students are not always aware.

Certainly the complaints made by the students have had far-reaching effects, far beyond probably what they imagine. There is one thing I can say with confidence about the student defender program and I think it is safe to say; when the students complain, there is a response to it.

There also has been some discussion about the referrals to district attorneys. I think to put this in perspective, it has always been the department's policy to refer any incident of serious child abuse to a district attorney. Admittedly, the procedure has not been as formal as it is now under the new policy. But it has always been the superintendent's responsibility to contact the district attorney. I speak as a former superintendent and I have discussed with them the merits of the case, or whatever it is that has occurred.

The D.A. in most cases may elect not to take action, for whatever reason. But under the new policy, of course, all child abuse cases are referred to the district attorney and this is through an agreement we have with the D.A.'s, that a report will be filed and this report will be filed and this report will simply contain all the information with the recommendation as to whether further action should occur or not. This means they will see all of those claims, whether or not they are substantiated.

One final comment.

Senator Specter inquired this morning about several hundred cases involving the use of excessive force reflected in the student defender's report. I believe these were brought up yesterday. I think the figure is——

Senator NICKLES. He said 700. That is correct.

Mr. SHAFER. I think we should clarify that by saying there were several hundred allegations and that is what the student defender report represents, an allegation by the student. Representing the student's version of what occurred. Our investigations reveal, however, that in a great majority of these cases, the allegations were not sustained.

As my written statement shows, in six institutions over the period of 4 years, there were 78 cases of mishandling that were substantiated, although some 500 allegations were made.

[The prepared statement of Mr. Shafer follows:]

PREPARED STATEMENT OF DAVID A. SHAFER

My name is David Shafer. I am the Standards Manager for the Department of Human Services. This makes me responsible for insuring that all of the Department's institutions meet accreditation standards. The Department is in the process of insuring that all of its institutions meet the standards of the American Correctional Association.

From June 1978 until January 1982, I held the position of Supervisor of Institutional Services. Prior to that time, I served as Superintendent of the L.E. Rader Children's Diagnostic and Evaluation Center (1972-78), and as Superintendent of the Helena State School for Boys (1969-72).

I want to describe briefly the Student Defender/Representative program which the Department has had in place for over four years and which represents an important forward step in the operation of the State's juvenile institutions.

The standards of the American Correctional Association (Manual of Standards for Juvenile Training Schools and Services, Standard No. 9336) contemplate a "written resident grievance procedure which is made available to all residents." The standards describe the type of grievance procedure that is recommended as a means for expressing and resolving the problems of residents. The recommendations include provision for written reports on the grievance investigation to be made to the residents, special handling of emergencies, advisory review of the investigative report, and access to the grievance procedure by all residents over a broad range of potential issues. The Student Defender/Representative program currently in place in Oklahoma's juvenile institutions fully satisfies the American Correctional Association standards.

The Student Defender/Representative program which is now in place began in April of 1978 and was originally called the Advocate Defender program. The Advocate General who was responsible for providing supervision of the Advocate Defenders out of the State Office reported directly to the Bureau Coordinator. It was the Advocate General's responsibility to conduct investigations involving both juveniles and staff members, review the hearing functions and oversee the grievance procedures in the institutional settings. It is important to emphasize that the Advocate Defenders reported directly to the Advocate General and did not answer to anyone at the institution, including the Superintendent. An Advocate Defender was employed and assigned to each institution. The Advocate Defender's responsibilities included: representation of students at hearings involving deprivation of liberty; aiding students in the exploration and resolution of grievances; and investigating allegations of mistreatment of resident juveniles.

Through the process of evolution of the program, the Advocate Defender's title has changed and at present they are known as Student Defenders on closed campuses and Student Representatives on open campuses. Other changes that have occurred recently include the establishment of an attorney as the Advocate General with an assistant Advocate General to carry out the daily functions of the office. We also now provide that any grievance alleging abuse is immediately referred to the Division of Child Welfare for investigation. This eliminates an intermediate layer, since formerly the results of Advocate Defender investigations of abuse allegations were referred to this Division.

Referrals of serious grievances can be made to the Office of the Inspector General, particularly if it appears that disciplinary action against an employee is possible. Where the investigation indicates that there has been criminal activity, the file is referred to the local District Attorney. In the past this has been handled informally. Recently, we have instituted the policy of referring to the District Attorney's office all investigations of abuse allegations, whether or not the allegations have been substantiated. Since only a very small percentage of such allegations is substantiated, this may turn out to be an unnecessary burden on the District Attorneys.

For the purpose of clarification, it might be interesting to follow the chain of events of a particular grievance. Such grievances, by the way, range from a dislike for the kind of food being provided to verbal harassment or possibly physical abuse by a staff member. Let us say that Student A makes a serious allegation against a staff member. He complains to his Student Defender either verbally or in writing by placing a note in a special locked box on his cottage to which only the Student Defender has a key. The Student Defender reviews the grievance with the student at his earliest convenience, preferably within twenty-four hours (emergency situations, of course, are dealt with by the Superintendent or his designee immediately to preserve the safety of the child). If the allegation involves abuse, then an immediate referral is made to the Division of Child Welfare, Child Abuse Unit, and the investigation is turned over to them. Should the allegation not involve abuse, then a thorough investigation would be conducted by the Superintendent in concert with the Student Defender and possibly the Office of the Inspector General. Results of the investigation are forwarded to the State Office where a determination is made by the Advocate General and the Supervisor of the Division of Institutions and Community Services for Children as to what further action should be taken. Such action could involve suspension of an employee without pay, verbal or written reprimand, transfer to other responsibilities, or termination. In any case the above recommendation for disciplinary action would be made to the Director's office through the personnel officer.

The present Student Defender/Representative system is quite effective, and it is generally accepted by the staff in the institutions. As might be expected when the program was initiated, there was considerable reservation among institution staff as to how it would be applied. The staff felt that they were responsible for caring and looking after the best interests of the students, so it seemed somewhat incongruous to many of the that a special staff member was assigned to protect the rights of the children. One consequence was that when grievances were filed by students and investigated, some staff were defensive. In addition, the program contemplates that the advocate defenders would represent students in deprivation-of-liberty hearings. Initially, the hearings tended to be long, cumbersome, and legalistic. The hearing process has since been streamlined. Training, experience and time have reduced the initial staff concerns, and I believe that institution employees are now generally comfortable with the overall program.

I should add parenthetically that a combination of the Terry D. litigation and the extensive use of the Advocate Defender system when it was initiated caused many staff to become unsettled and frustrated at what they perceived to be a failure to appreciate the problems they faced on a day-to-day basis in carrying out the institutions' programs and dealing with juveniles that were often unruly and resistant to the Department's efforts. This same feeling has been renewed as a result of the many investigations of the institutions that have been launched in the last few months.

All things considered, the Student Defender/Representative program has proven to be a viable element in the preservation of the rights of institutionalized children. After nearly four years, by the end of 1981, approximately 1,500 complaints had been processed by the Advocate General. Of these, approximately 500 alleged some type of physical abuse. All of these complaints were thoroughly investigated and of the approximately 500 alleged physical abuse complaints, 78 were substantiated and resulted in disciplinary action against 60 individual employees of whom approximately 40 were either terminated, resigned, or transferred to assignments not involving youth contact.

Senator **Nickles**. Thank you.

Senator Boren, so you are aware, I have asked which people have statements to make, and I requested that they make their statements as a panel. If you have a question and you would like to interrupt, please do so.

Senator **Boren**. I don't want to let Dr. Baumberger off the hook on one of my pet ideas. I want to come back and find how much progress we are making on group homes and restitution and how much more we need to do, because I suspect there is a lot more we need to do.

But, Mr. Chairman, what you are doing is orderly. Why don't we proceed on the basis you suggested.

Mr. **Rader**. May I say this: You were the Governor when SJR—you signed it into law, SJR 13. I remember that you very graciously gave us 211 employees. So the beginning started right then and one of the things you did was appoint a court administrator.

Senator **Boren**. That was the beginning of the diversion—maximum effort on diverting people.

Mr. **Rader**. That was the beginning.

Senator **Boren**. In 1976.

Dr. **Baumberger**. It was passed in 1975.

Senator **Boren**. Started being implemented in 1976.

Mr. **Rader**. So we carried that forward. I don't know how many employees we have now.

Dr. **Baumberger**. Three hundred fifty.

Mr. RADER. It has gone up from the 211 you authorized.

Dr. BAUMBERGER. By four group homes and two contracts.

Mr. RADER. We have a ways to go.

Senator BOREN. We have two group homes that are operated by the State?

Dr. BAUMBERGER. We did at that time.

Senator BOREN. At that time we had two.

Dr. BAUMBERGER. We now have a total of six group homes, two more in contract. We have about 85 beds which see about 300 youngsters a year in lieu of institutionalization; or, once they go through an institutional process, then they have a place to go.

Senator BOREN. So, we have gone from zero beds in group homes to 85 beds now.

Dr. BAUMBERGER. And it is a mix. It is public contract and private contract. In addition to that, we have two contracts for day treatment, which, instead of having bed slots in the metropolitan area, you have intensive supervision. Those are private contracts.

Senator BOREN. This is an attempt to get the young people out of these big institutions and get them into more family-like settings. Do they go to public schools when they are in these group homes?

Dr. BAUMBERGER. Yes, sir, or work.

Senator BOREN. They have to be in at a certain hour and they are supervised like they would be at home?

Dr. BAUMBERGER. Yes. We just understand from your office that the Governor will sign McCorkell's bill tomorrow.

Senator BOREN. A member of my staff just told me that.

Dr. BAUMBERGER. That means by next year we will be having to program about probably 150 more beds in the community.

Senator BOREN. It will go from 85 to over 200.

Dr. BAUMBERGER. Over 200.

Senator BOREN. I gather by that that the need has been there. In other words, we have a backlog of young people right now that you would like to put in those.

Dr. BAUMBERGER. We have a waiting list in every group home. We have a waiting list in every private residential facility, psychiatric facility right now. We are buying 140 beds and have a 30 waiting list for youngsters that we have in our custody. Those we maintain in our institutions, but we need to purchase those kinds of services for those youngsters.

Senator BOREN. Let me say that I hope you will press ahead on it.

Dr. BAUMBERGER. We will.

Senator BOREN. I will tell you this. I am going to keep asking that question. You can expect me in about 3 months and 6 months and 9 months from now periodically to ask you that. I think that is the real answer, if we can get these young people into those situations, those that we cannot get into foster homes and adoptive homes or back in their own homes. To me, we would spend a lot less on adult prisons if we can get those young people into those group homes.

I hope the people of Oklahoma will keep the heat on you as well as me keeping the heat on you to see that that is done and that they keep the heat on the legislature and anybody else where it needs to be to get the support for those programs.

Dr. **Baumberger**. Senator, Oklahoma is not alone in having problems. Troubled youth have troublesome problems. I think every State has gone through problems such as this.

I want to make a statement if I might. This has implications, it seems to me, for congressional action in the future similar to OJJDP's initial thrust. The implications that I want to speak about may be the philosophical differences with States such as Oklahoma with a heavy emphasis in program as we do in the community but also the belief that you must have a continuum of services and a balanced continuum of services. The communities and the youngsters in those communities need relief and need a structured environment, and the State must have a resource for those youngsters to go to. And, conversely, once an institutionalized child is there and has received the benefits of the program, there must be a place for him to go. And you need a continuum of service.

Quite often, it seems to me, the notion of deinstitutionalization used so much in these hearings speaks to either or you either have a child in an institution, which is bad, or you have the community program, and community programs are good. Those are simplistic responses to complex societal problems with complex youngsters in societal problems. I hope in the future in your deliberations you may see some difference in congressionals acts that will speak to the complexities instead of the simplicities. Thank you.

Senator **Nickles**. I made a commitment to try and let each person have a few moments to make his statement. Possibly, when we finish we could ask a couple of general questions. We have two other persons scheduled to testify after we finish this panel. Looking at the time we would like to be able to wrap up this hearing today if possible. That is for your convenience as much as ours.

Mr. C. **Miller**. We have actually several others, but I have tried to cut it down as much as possible. I am going to ask at this point Mr. Gordon to speak. You raised some questions and there were some questions raised yesterday about the policy about suspending employees when they are charged with committing acts. Mr. Gordon is going to speak to that and also to the issue concerning corporal punishment that came up yesterday.

TESTIMONY OF ROBERT CHASE GORDON, DEPUTY GENERAL COUNSEL, OKLAHOMA DEPARTMENT OF HUMAN SERVICES

Mr. **Gordon**. Senator, one of your concerns, of course, was that where we have someone who is accused of some wrongdoing that that person not be sitting there on the payroll, et cetera, or certainly not routinely involved with children if that happens to be the case. It has been our ongoing policy, at least I know from 1978 forward and probably back behind that as far as I know, that anytime a child was injured as a result of an action taken by an employee that that employee would be relieved of duty immediately. By relieved of duty, that places that employee home, off the campus. It gives us the opportunity then to go in and investigate the matter. If the employee was subsequently found to be innocent of the charges, there was no wrongdoing, the employee would be allowed to come back to work and he would not have been punished by loss of pay. However, if it was found that there were charges that could be substantiated, at that time action would be taken to either terminate or suspend that particular employee.

As far as I know, that particular action still takes place today. That continues to be our policy.

Senator NICKLES. I understand that that is your policy, but that has not actually happened with those four cases that I have repeated several times.

Mr. GORDON. Let me say this. It did happen in the Mr. C case.

Senator NICKLES. We have two Mr. C.'s.

Mr. GORDON. That is a different Mr. C. It happened in the Mr. C. case that we are talking about, the particular case.

Senator NICKLES. I understand that that has happened in the case that you just alluded to. I realize that he was suspended for a period of time. But he is working right now in the department.

Mr. GORDON. I understand he is working. Of course, but now we get back to that same problem. We tried to take action to terminate him, but our action was unsuccessful. Once he has been reinstated, there is not much we can do about that.

Senator NICKLES. In this case he was reinstated once and you later terminated him for a different reason. Now we just find that he has been reinstated again.

Mr. GORDON. That is correct.

Senator NICKLES. Is it impossible to get rid of this undesirable employee?

Mr. GORDON. Well, apparently the grounds for reinstatement apparently have not been sufficient as far as the merit board or the evidence has not been sufficient to sustain the allegations against him.

Senator NICKLES. Do you think the department should devote more time and effort in building a stronger case for his termination?

Mr. GORDON. I think there is an effort right now going on between the department's legal staff and the divisions of the department. The person who is involved in having to prosecute these cases will be working hand in hand from the inception of the case. In other words, from the very moment that it appears that there has been some wrongdoing that attorney would be notified. He would assist in the development of the case.

Senator BOREN. Mr. Gordon, in the beginning—and I am familiar with this in instances when I was in State government and had urged agency heads to fire an employee only to have the decision overturned later. A lot of the times the problem is you have lay people, people that do not know what kind of evidence is required to get a dismissal who make your record in the first instance. And then your lawyer is stuck with that inadequate record later on.

What I understand you to be saying is that you are in the process now of reorganizing, and I gather this has been a deficiency in the way you have operated in the past. I am not trying to start an argument or ask for a defense—it seems to me a deficiency. Here is an area where you can make an improvement by assigning a lawyer to a personnel action right away to attempt to get the evidence that will stand up in court so you can get rid of the kinds of problem people that Senator Nickles is talking about. I must say I share his concern.

Is that an improvement that is being made?

Dr. **Gordon**. That is an improvement that is being made right now.

Senator **Boren**. Will the department assign additional legal resources to make that possible to build those cases?

Mr. **Gordon**. I do not see that there is any problem about legal resources. The resources available have never been a problem.

[The prepared statement of Mr. Gordon follows:]

Prepared Statement of Robert Chase Gordon

On July 31, 1980, Mr. Dewayne [redacted] was notified by certified mail of his termination effective August 8, 1980. On August 4, 1980, Mr. [redacted] requested an appeal before the Oklahoma State Personnel Board, as provided by Oklahoma law. Said appeal was subsequently scheduled for September 25, 1980.

At the appeal hearing, the Department was represented by Mr. Jerry Beavin, Staff Attorney with the Legal Division. Mr. [redacted] was represented by an attorney of his choice. The alleged victim, Ronnell [redacted] testified at the hearing. A witness to the alleged homosexual act refused to testify. Mr. [redacted], the social worker, testified on his own behalf.

After hearing the testimony of the witnesses, the hearing officer determined that the allegations had not been substantiated by the testimony and reinstated Mr. [redacted] to his position of social worker.

It was the recommendation of the Legal Division that no appeal be taken to the District Court and Mr. [redacted] be reinstated as ordered. Under Oklahoma law, the decision of the State Personnel Board may be appealed to the District Court of the State of Oklahoma. However, under Oklahoma law the appeal is on the record and not in the form of a trial de novo. The recommendation of the staff attorney, which was concurred in by his immediate supervisor on the Department's legal staff, was based on the fact there had been no abuse of discretion by the hearing examiner, nor error in law. Past case decisions in this area clearly have established that a hearing examiner will not be overturned, absent an abuse of discretion or error in law.

Mr. [redacted] was reinstated to his previous position and in November of 1980 was transferred to the new Intensive Treatment Center at Sand Springs.

The results of the [redacted] case, and the problems incurred, are illustrative of the difficulties which the Department has encountered in attempting to dismiss employees for improper treatment of juveniles in the Department's custody. Traditionally, the credibility of juvenile witnesses is successfully attacked. Additionally, even though the State Personnel Board and/or Hearing Officer may sustain the Department's position with respect to employee wrongdoing, they have in almost each and every case involving child care workers reduced the Department's action from termination to suspension. The result has been that the Department's ability to discipline employees has been limited with respect to juvenile institutions.

While the decision of the Hearing Officer is reviewed on a case-by-case basis, the appeal process is limited to an appeal on the record and provides no opportunity to examine the basis of the decision. For this reason, unless there is an apparent abuse of discretion and error in law, appeals are generally not recommended by the Legal Division.

Senator **Boren**. Let me ask Mr. Rader. Will you be willing within the department's budget to place greater resources in terms of improvements in the budget in order to get those kinds of cases built quickly? The problems that have been before this subcommittee have been primarily personnel problems. It seems to me that this is something the people of the State have a right to demand. It is something that perhaps other States can learn from, too, if we start having a more effective system, building that case against an employee who does wrong right from the beginning.

Mr. **Rader**. Senator, Mr. Johnson, our general counsel, is here. I believe that he has assigned an attorney.

Dr. **Baumberger**. There are really two. Wally Keating has been assigned, and he is a personnel specialist.

Senator **Boren**. I would appreciate it if you would supply the committee later with the State's reaction to this. I would hope that it would be more than one attorney. I would hope that as many legal resources that are necessary to make these cases would be there.

I would encourage you—and probably Senator Nickles would, too—to appeal some of these cases and see what the district court does with them, and see if you can make some of these dismissals stick. I think a good example being made of an employee who does wrong often helps prevent that in the future. I am not implying that anybody in the department would knowingly be soft on somebody that did wrong. But I think the department needs to more aggressively pursue this and prove to the public beyond the shadow of a doubt that that is the case.

Mr. GORDON. I do not think we are trying to shift the blame to anyone here. I think that needs to be understood. But in the particular cases that we brought up today, almost to a "T" you have a case where there have not been sufficient witnesses, so that you have ended up with one person testifying against the adult; and the man's job is on the line. And that is just not sufficient. We need more than that in order to prove the case.

Senator BOREN. If you had a lawyer there in the beginning, the lawyer would know to go get additional witnesses, to get different kinds of evidence that would give you a case that you could fire an employee with.

Mr. GORDON. We had one of these cases where we thought we had five witnesses. By the time trial came up, we had one. The rest of them would not testify.

Senator BOREN. What about the question that Senator Nickles asked you earlier in regard to these people who have turned out to have criminal records or perhaps have been inadequately trained? Is the department doing anything to improve the deficiency in this area in terms of screening of personnel and in terms of training of personnel? If these actions are being taken, what are these actions?

Mr. GORDON. I believe there is some effort going on in that area. Mr. Garrett, who is our IG, is responsible for a new program in this particular area. He could speak to it. We are trying to screen the people that we get on board. However, I think you need to understand that you cannot screen them until after they are hired. Under the State personnel policy, they do not have to put down that they have a past record.

Senator BOREN. I am astounded at that. Tell me that again. If the State is getting to hire someone, are there resources for a background check not available? Can you not call the State OSBI and have them do a background check? Or do they not have enough agents to do that? You are going to hire someone as a house parent. How do you screen them? Who does the screening? How do you find out whether or not they have a criminal record or if they are not well thought of in the community or have had other kinds of problems maybe with their own children? How do you determine whether that is a fit person to hire or not?

Mr. C. MILLER. Senator Boren, Mr. Garrett is the inspector general of the department. He is prepared to speak exactly to this point. With your permission, Senator——

Senator NICKLES. The Senator and I must try to restrain our questions so you can make your statements. Then at least you will be able to say that you had a chance to put your side of the record forward. I think that is important.

Senator BOREN. Let me promise the chairman I will restrain myself from now until we get all the rest of the statements made.

I think this is an important point, one which you made this morning and one which greatly concerns me. We have had people with criminal records. I want to make sure that steps are taken that we do not have that happen again if it is humanly possible.

Senator NICKLES. Mr. Garrett, would you care to answer the question?

TESTIMONY OF MR. CHARLES L. GARRETT, INSPECTOR GENERAL OF THE DEPARTMENT OF HUMAN SERVICES

Mr. **Garrett**. Yes, I would, Senator. We have recently done over 5,000 background checks on employees for the department. We first started this in November 1980. We have done since that time, like I say, 5,000 background checks on employees. We did find four persons working in the institutions who do have criminal records, in juvenile institutions. That is out of approximately 1,500 employees.

Senator **Nickles**. Are they still working?

Mr. **Garrett**. They are still working.

Senator **Nickles**. Two of those——

Mr. **Garrett**. One of those has been terminated.

Senator **Nickles**. Are two of those people that I have mentioned today?

Mr. **Garrett**. One of the employees that was mentioned in the hearings prior—was a detailed report on a prior arrest record of one of the persons alleged to be an employee of the department at one of the institutions. The information was apparently taken from a report prepared by my office.

Senator **Nickles**. Could you identify him? Not his full name. Is it Mr. C. at Whittaker?

Mr. **Garrett**. Mr. P.

However, the information was produced as a result of the background check conducted by my office. Immediately upon receiving the information, the employee was confronted with the record. He immediately resigned his position with the department.

Senator **Nickles**. Did you do a check on Mr. A. at Taft and Mr. C. at Whittaker that we have spent so much time talking about the last couple of days?

Mr. **Garrett**. We did a complete run of all the persons working in the juvenile institutions.

Senator **Nickles**. Did you find anything on those two individuals?

Mr. **Garrett**. No, sir, I do not believe so.

[The prepared statement of Mr. Garrett follows:]

PREPARED STATEMENT OF CHARLES L. GARRETT

When investigators from the Office of Inspector General first met with the Muskogee County Undersheriff on September 22, 1981, regarding problems in Taft, Oklahoma, they were told that there had been no police officer in the town of Taft for approximately four years and that there was no Deputy Sheriff currently living in the Taft, Haskell area. Investigators met with the Sheriff the following day, and essentially the same information was conveyed. The abatement of the problems at OCC by mid-October was accomplished primarily by the staff of the Oklahoma Children's Center through increased security measures including closer scrutiny of vehicles being allowed on and off the campus. Other recommendations made by my office were followed by the security staff at the institution. A new security chief was recruited and hired with assistance from area law enforcement officials.

In October 1981, the investigation had proceeded to a point where it was decided that a meeting should be held with the District Attorney from Muskogee County, Mr. Mike Turpen. The purpose of this meeting was to involve the District Attorney's office in possible prosecution of individuals linked to criminal activity in the Taft community. At a meeting on October 16, 1981, with District Attorney Turpen, Department officials discussed allegations involving the selling of controlled substances, the transport of AWOL juveniles out of the Taft area to Muskogee and Tulsa, and the possibility of hiring a highly qualified chief of security for the Oklahoma Children's Center. It was generally agreed at this meeting that Mr. Turpen would prosecute any cases that were brought to his office that showed merit. It was felt that the investigation was only in the beginning stages and much more work would be required by OIG investigators before any action could be taken by the District Attorney's office. It was also understood that the Internal Investigations Unit in the Office of Inspector General would maintain close contact with Mr. Turpen's assistant, John Walton.

As the investigation expanded, we begun to find evidence that some AWOL's were being approached by prostitution rings in the Tulsa and Muskogee areas. We also begun to suspect that interstate transportation for purposes of prostitution may have occurred. This information was given to juvenile officers and detectives at both the Tulsa and Muskogee Police Departments. In reviewing these allegations the Tulsa Police Department made a tentative offer to place a female police officer into situations that female AWOL students had encountered. Our efforts continued in parallel with those of Tulsa police officials.

Another meeting was held in Muskogee on January 28, 1982. The purpose of this meeting was to bring Mr. Turpen and his staff up to date on the Taft investigation. Both the District Attorney and the Department were at this time aware of inquiry by Gannett News Service reporters, and we were all concerned that publicity would undermine the law enforcement investigation. At this meeting a phone call was made to Carlton Sherwood of the Gannett News Service to verify that the Office of Inspector General was indeed working with the District Attorney's office. Mr. Sherwood talked at length with several persons present, including Assistant District Attorney John Walton. Mr. Sherwood was told that the investigation would be severely damaged by untimely publicity. Walton told Sherwood that he did not feel that charges were in order at this time without more evidence. Sherwood assured us that the law enforcement investigation would not be reported before it was concluded. (Perhaps we were naive to have taken Mr. Sherwood at his word, but several months earlier a local reporter had stumbled onto information about the investigation--

from sources in Tulsa--and had very willingly and conscientiously respected a similar request from me.)

A decision was made at the meeting on January 28 to withhold termination of two employees until the possibility of placing an undercover agent in Taft could be explored. Before undercover arrangements could be completed, the Gannett News Service advised Oklahoma law enforcement officials and the Department that their story would be published beginning on February 7, and that the Taft investigation would be a central issue. We received this information on or about February 4, one week after receiving assurances that news reports would not interfere with the ongoing investigation. On February 6, I advised Mr. Rader that the anticipated publicity had destroyed the possibility of using undercover agents, prompted local law enforcement agencies (particularly the Tulsa Police Department) to withdraw from the investigation, and effectively terminated the investigation. I recommended that the Department issue a statement as soon as possible in order to limit the negative effects of the biased reports which were expected from Gannett. Such a statement was released by the Department on the afternoon of February 6.

Despite the untimely termination of the investigation, District Attorney Turpen has filed two cases arising from the investigative effort. Warrants were issued. One individual has gone to preliminary hearing and that case was taken under advisement by the presiding judge. The other case has not progressed beyond the preliminary stage.

Two institutional employees were also terminated as a result of the investigation, but because of the untimely publicity we were not able to develop as substantial a case against these two as was hoped for.

I want to make absolutely clear to this Subcommittee and the people of Oklahoma that I sincerely believe that by last January our investigation, in cooperation with Tulsa and Muskogee law enforcement officials, was on the verge of a major breakthrough that could have had a significant impact on the prostitution racket in eastern Oklahoma. This law enforcement prospect was destroyed by what I consider irresponsible interference by newspaper reporters. The losers in this matter were the people in Oklahoma, and particularly the young women who may be exposed to solicitation and other abuses which are characteristic of the prostitution racket. I fear that in due time these solicitors and racketeers--who might have been exposed by our undercover investigation--will again be preying on disadvantaged young women in Oklahoma.

To repeat--I sincerely believe that the opportunity to attack the broader problem of prostitution, and the closely-related problem of drug dealing, was destroyed by untimely publicity and irresponsible interference with a law enforcement investigation.

Senator NICKLES.I want to leave that just for a moment and try to give everybody else a chance to make their statements. Then, if you would be available, we might address that again. I have addressed those two individuals and their records before, and I do not want to be repetitive.

Did you have some additional comments that you wish to make, Mr. Gordon?

Mr. GORDON. Yes, Senator. There was some concern from the testimony yesterday that there might have been a misleading impression given to this subcommittee that the use of corporal punishment—I am specifically talking about paddling—was being condoned by the department on the Whitaker campus. This simply is not true. In fact, the paddling incidents described yesterday did not involve our department employees. The Whitaker school on that campus is operated by the school district and not by the department.

It has always been, to the best of my memory, the policy of the Oklahoma Public Welfare Commission that the use of corporal punishment on our campuses is to be prohibited. However, State law does allow school districts to utilize corporal punishment in the control of students in the school setting. What has occurred over the last few years is that we through negotiations and discussions with the school districts where our campuses are located have been able to reduce the use of corporal punishment on all the campuses except one, and that is Whitaker.

I think the reason for this is that at Whitaker the kids go to school not only on the campus but in town. Therefore, it has been their position that they have a policy of using corporal punishment, and they will apply it equally to town kids as well as Whitaker children. Now, we do not necessarily agree with that. I would be willing to say we do not agree with that. But we do not feel that we have a right to force them nor the legal right to force them to back away from that position when the State law authorizes the policy that they are carrying out. So, it puts us in a kind of strange position.

I think there is some new law in the latest bill that has been passed which may give rise to a change in that rule and regulation.

Senator NICKLES. I understand where you are coming from and understand the department's position, but also, having visited Whitaker, I heard a lot of students testify that paddling was very common. It appears to be more common than I would think in most public schools.

Mr. GORDON. I share your concern from my past work in this field and with that in the school district.

Senator NICKLES. Mr. Miller?

Mr. C. MILLER. Senator Nickles, at this point I would like to call on Dr. Rettig at the other end of the table. He wants to speak to some of the points that were made yesterday about the quality of the institutional programs that are offered out there. I think you will find his perspective is very unique. I think you will find he has got one of the most interesting comments to make today.

Senator NICKLES. Could you identify yourself please?

TESTIMONY OF RICHARD RETTIG

Dr. RETTIG. I am Dr. Richard Rettig. I am a consultant with the department in charge of coordinating training for personnel working in the department's juvenile institutions and community field offices.

Senator NICKLES. Do you work for the department as a consultant?

Dr. RETTIG. I am a full-time employee of the department.

Senator NICKLES. You are a full-time employee. Please proceed.

Dr. RETTIG. I have been associated with the department since 1978. I believe I bring an unusual perspective to these hearings which should be of assistance to this subcommittee. I was formerly a juvenile delinquent institutionalized in California for grand theft auto. I spent a total of 15 years in juvenile and adult correctional facilities in three States. I was a four-time loser in the adult system, having been arrested and convicted for arson, armed robbery, burglary, and burglary, in that order. I was released the last time in 1966 on parole.

Afterward, I graduated summa cum laude from the University of Oregon with a major emphasis in juvenile studies. I earned a master's and Ph. D. in sociology at that university. My other qualifications and my résumé are all set forth in my written statement, and I will not repeat them here.

I do want to comment on a couple or three things. I want to comment on the weight that the subcommittee should give to allegations of mistreatment made by juveniles in institutional custody from my perspective of having been one and having been a member of the convict culture at both the juvenile and adult levels. The impression that seemed to emerge to me yesterday at least is that juveniles in Oklahoma juvenile institutions fight a daily battle for survival and dignity, and I think that is inaccurate.

I can say with authority that any allegation of pervasive or systematic or systemic abuse in Oklahoma's juvenile institutions is wrong. I have personally experienced systematic and pervasive abuse in a juvenile institution. I know firsthand about survival there. I once spent 33 days in the hole at the Preston School for Boys in California. I lived in terror of my life. I have been seriously injured by abuse from both staff and other juveniles. For this reason, I am extremely sensitive to abuse or mistreatment of juveniles.

I have dedicated my career since 1966 to the development of meaningful juvenile care. I have written a number of articles in reputable journals. I have devised treatment programs. I have a deep and compelling commitment to the prevention of juvenile abuse. You do not help juveniles become responsible citizens by abusing them.

I know that the juvenile care and treatment programs of the Oklahoma Department of Human Services do not condone or tolerate abuse. As a matter of fact, many staff work fulltime to minimize abusive incidents. I am also keenly aware of the isolated instances of abuse or misconduct which do from time to time occur in every system including ours.

I would like to caution against giving uncritical credibility to statements by problem juveniles and juvenile delinquents. The average person does not understand the language and the rituals and the values of the juvenile subculture, but certainly a bona fide alumnus of that group such as myself does have some understanding of that. Problem juveniles, especially those with a history in the juvenile justice system, have their own verbal and nonverbal communication systems, their own ideological perspective, their own rituals having to do with initiation into the group, finking or ratting or telling, their own rites of passage, and status and roles within the group. Frequently, they see no virtue in honesty or loyalty beyond their peer group.

Some are prone to fabricate and prevaricate in order to gain attention, to enhance their own prestige with their peers, and to frustrate and manipulate anyone outside their own circle of peers, particularly to frustrate and manipulate the system if they can. I did it myself.

The staff who work every day in these juvenile programs do not work in a real-world environment. They cannot and except in isolated cases they do not respond in kind to frequent and often extreme provocation. My own daughter just yesterday as I called home reported an incident at the center where she works as a YGS. A student picked up a metal chair and hit her two or three times across the legs.

Senator **Nickles**. Where does she work?

Dr. RETTIG. The Laura Dester Center in Tulsa. The Laura Dester Center is the old Viking program. It has been moved to Tulsa at a different location. It is an emphasis program for younger juveniles.

So, staff cannot respond in kind to frequent and often extreme provocation. They deserve your praise and your prayers and your support.

Now I would like to talk briefly about the contention you heard yesterday, that the programs of the institutions are no good and actually make the juveniles worse, turning them from poor neglected children into hard-core criminals. Like some other charges you heard, this is not really correct. Actually, a greater number of youth with institutional histories make a successful adjustment in society and are never heard of by the adult system as adults than those who fail and come to the attention of the adult system. Our failures will always come back to haunt us publicly, but our successes are seldom visible, seldom apparent. For example, in this current matter the subcommittee focused on students who had been identified as problem cases. They did not publicly discuss cases of institutional adolescents that reflected successful adjustment in the institution and/or positive growth and reintegration with society. We never hear about those. They go out and they disappear into society. They become useful taxpaying citizens. When they come back to the institution, the person that they want to see usually is the YGS or their social worker and thank them for a job well done.

Youth who make it in society seldom testify with respect to their institutional experience. Sometimes when they are asked to testify, they are more likely to deplore their experience than to praise it, even though they are now a success.

Let us consider the evidence we have heard from the youngsters who testified here yesterday, even though there may be some problem accepting their entire statements as factual. Delores, for example, testified that she now attends Langston University as a freshman student and is enjoying considerable success. David testified that, although he had committed 30-some burglaries, he now knows better and would not do that again. Where is he learning to put away deviant activity and take on good attitudes that he expresses? He said he intends to finish school and get work. Time will tell us about David's good-spoken intentions.

I would like to discuss Tina with you at some length. I was personally involved in her case almost from the beginning through the youth minister at Claremore's First Methodist Church, where I was a volunteer youth group leader. I went out to the family home shortly after the four children had been taken to the shelter home there in Claremore. The parents had run away, I believe, to Texas abandoning their children. The home was an absolute disaster. My wife became physically ill from the evidence of neglect and moral abuse. That same afternoon I visited with Tina and her brothers in shelter. Margaret and I would have liked to provide her with a temporary foster home, but her social worker and I concluded that placement was not appropriate in the community at that time. Yesterday Tina presented you and me with overwhelming evidence that she has made significant progress in personality growth. Among other things, she has overcome grief and trauma of a broken home. She verbalizes a strong desire to help others, to have a career in social work, to help those who are deprived like she was.

Let me give you one last example that sounds like a child that you heard about yesterday in the Viking program. I am personally involved in this case of an 11-year-old boy who was in the Viking cottage program at D&E from the time he was 9 years old. He was there for over a year and spent some time at the children's medical center in Tulsa. After a good deal of preliminary work with the boy and his social worker, my wife and I took him into our home as a foster child. He is there today. He has now completed the third grade. A recent psychological assessment last week indicated that he has overcome a great deal of the trauma and grief in his life experienced as a result of his father's death and abandonment by his mother.

When we talk about the programs he was involved in at D&E and the Viking program and at the children's medical center, he stated unequivocally to me several times that he would, quote, probably be dead today if it were not for the help that he received from many youth guidance specialists and social workers there.

I think we must conclude this matter by saying that, although institutional placement is seldom a first choice with professional child-care workers in Oklahoma, it does exist as a positive alternative on the continuum of services within the department. Students placed in institutions are usually helped, and can always be helped, when they become open to our assistance.

[The prepared statement of Dr. Rettig follows:]

PREPARED STATEMENT OF RICHARD P. RETTIG

I am a consultant to the Oklahoma Department of Human Services, responsible for coordinating training for personnel working in the Department's juvenile institutions and community field offices. I have been associated with the Department since 1978.

I believe I bring an unusual perspective to these hearings which should be of assistance to the Subcommittee. I was formerly a juvenile delinquent, institutionalized in California. I have spent a total of 15 years in juvenile and adult correctional facilities in three states.

In the interim I graduated Summa Cum Laude from the University of Oregon, with a major emphasis in juvenile studies. My doctoral dissertation, A Study in Student Development: Rebellion and Delinquency as Alternative Responses to Schooling, was published and widely distributed in 1979. I have two books and 15 journal articles to my credit--all but one book in the field of juvenile care and treatment.

In recent years I have visited numerous public and private juvenile institutions, including those in the states of Texas, Colorado, Idaho, Washington, Oregon, California, Minnesota, Kansas, Nebraska, and Oklahoma. I have conducted training sessions in every Oklahoma juvenile institution, and I have had extensive opportunity to observe the Department's juvenile care and treatment programs, and to become acquainted with it's personnel.

In my opinion, Oklahoma is developing one of the finest youth services systems in the United States. The state of the art in Oklahoma with respect to the delivery of services to children and youth is steadily advancing. I offer several reasons for this opinion:

1. Institutional placement of children and youth is firmly resisted by the combined efforts of CR&CS and the courts. In most cases, institutionalization is the last option, used only when the community lacks the necessary resources to help. Of course, in Oklahoma, as elsewhere, some communities are less helpful and less tolerant of deviant juvenile behavior than others.

2. A needs assessment is worked out with each child, and the family when possible, in an effort to meet needs on the physical, medical, social, emotional, educational, and vocational levels.

3. Every effort is made to release each child within a few months back to the community. The Boley Parole Assessment Leave Program is an outstanding example of this effort.

4. Many programs are available to youth in educational, vocational, recreational, and group related activities. Where weaknesses in program areas exist, supervisory and consultant staff are working to strengthen existing programs and innovate positive new approaches.

5. A student representative system exists whereby any student can, without risk of recrimination, officially submit a grievance through administrative channels and receive a prompt response in resolution. This innovative and progressive program continues to improve and develop.

The allegations that juveniles in Oklahoma's juvenile institutions fight a daily battle for survival and dignity is an absolute falsehood. I can say with authority that any allegation of pervasive or systematic abuse in Oklahoma's juvenile institutions is wholly without any basis in fact.

I have personally experienced systematic and pervasive abuse in a juvenile institution. I know firsthand about survival. I once spent 33 days in the "hole" at the Preston School for Boys in California. I lived in terror; I have been seriously injured by abuse from both staff and other juveniles. For this reason, I am extremely sensitive to abuse or mistreatment of juveniles. I have dedicated my career to the development of meaningful juvenile care and treatment programs. I have a deep and compelling committment to the prevention of juvenile abuse. You don't help juveniles become responsible citizens by abusing them.

I know that the juvenile care and treatment programs of the Oklahoma Department of Human Services do not condone or tolerate abuse. In fact, many staff work full-time to minimize abusive incidents. I am keenly aware of the isolated instances of abuse or misconduct which do from time to time occur in every system, including ours. I am sure that in every such case, the Department has responded promptly and in an appropriate manner.

Last February I watched with dismay and amazement efforts to give credibility to uncorroborated statements by problem juveniles and juvenile delinquents. The average person, and apparently some so-called consultants, do not understand the language, rituals and values of the juvenile subculture, but certainly a bona fide alumnus of the subculture, such as myself, does understand.

Problem juveniles, especially those with a history in the juvenile justice system, have their own verbal and non-verbal communication system, their own ideological perspective, their own rituals having to do with initiation into the group, rights of passage, and status and roles within the group. Most of the times they see no virtue in honesty or loyalty beyond their peer group. They do not hesitate to fabricate and prevaricate in order to gain attention, to enhance their own prestige with their peers, and to frustrate and manipulate anyone outside of their own circle of peers. Unfortunately, it appears that the Subcommittee did not have these traits in mind when it heard the reports of allegations by delinquents and problem juveniles.

I also understand from my personal experience the difference between abuse and the response to provocation. I knew as a juvenile, and I know today, that when I spit in a man's face, or kick him in the shin, or curse him, I am likely to get the same in return. That bit of reality does not strike me as unfair or unreasonable. The Subcommittee and the people of Oklahoma must realize, however, that the staff who work every day in these juvenile programs do not work in a real-world environment. They cannot and, except in isolated cases, they do not respond in kind to frequent and often extreme provocation. They deserve your praise, your prayers, and your support. Instead, many faithful, hard-working employees have been arbitrarily and collectively insulted and prejudiced by irresponsible allegations.

Senator NICKLES. Thank you, Doctor. We appreciate your comments and your personal accomplishment and also your testimony and the fact that you have actually put your beliefs into action as far as bringing some of the children into your own home.

Is there anybody else, Mr. Miller?

Mr. C. MILLER. Just this, Senator Nickles, speaking of what you just said, putting beliefs into action, it is easy to criticize, especially kind of generalized. I was listening to Dr. Rettig's statements about Tina and the progress she has made. I heard Dr. Baumberger's statements about the kinds of programs that the institutions run and try to teach these unfortunate youngsters education and trade. Where Tina was located they discovered she had an artistic talent. They made a lot of effort to bring that talent out. I have got some hard evidence, you might say, that demonstrates that.

This is something that Tina did herself. It is a piece of artwork that is very clever and interesting. She did this in the institution as a result of the training she got there. One time when Mr. Rader was out at the institution on one of his visits he met Tina in person. Tina told him she would like to make something for Mr. Rader to express her appreciation for the way institutions have helped her. Mr. Rader said that, if she did, he would hang it in the State office. So, Tina made this piece of artwork which is, I think, quite fascinating, as you can see, with some modern materials. She gave it to Mr. Rader, and it does hang in the State office. It says: "Presented to the director from Tina, Whitaker State Children's Home, October 17, 1981."

Illustrations like this are repeated hundreds of times over and keep dedicated public servants like those you have heard today in this grueling, thankless task, notwithstanding the occasional provocations and allegations that are made against them.

Senator NICKLES. Thank you. Mr. Leitka, did you have any statements that you wanted to make? Mr. Daney?

Mr. LEITKA. No, sir.

Mr. DANEY. No, sir.

Senator **Nickles**. If you do not have a statement, I wish to make a statement on your behalf. Do you have a comment that you would like to make?

TESTIMONY OF HERSCHELL E. DANEY

Mr. **Daney**. Yes, I do have a couple of things I would like to say. One is I first really became quite involved with the investigation when I received a number of calls on February 11. I would like to say that, you know, as a result of all that and the accusations made against me, I have received calls from relatives in California and Florida and read a number of newspapers. I am really sorry that the news media is not here to really express again that Delores did have the guts to say that she made a mistake. I really appreciate that. Delores, I want to tell you that I do appreciate it. And I think that you were innocently used by the investigators.

I received a telegram which stated, "I spoke today with Delores Briscoe, who told me that she was mistaken in her statement to the subcommittee when she alleged that you had touched her inappropriately. I apologize to you for any embarrassment that may have been caused to you by this inaccurate reference to you in the course of the subcommittee's proceedings." So, thank you.

I think I represent many thousands of employees who——

Senator **Boren**. Who is the telegram from?

Mr. **Daney**. The telegram is from Bruce Cohen.

I represent thousands of employees and that February 11 hearing had many unchecked allegations made instead of narrowing it down to some specifics. So, I did want to comment about that.

The other thing that I wanted to share just very briefly is this. As superintendent of the Rader Children's Center, we had a number of allegations made yesterday, very harsh allegations about our center. I would just like to comment about that very briefly. The children who come there, it is their very first time. They are forced, they are sent there by the courts, they come there very unhappy, very frustrated, very angry, very hostile. So, we end up having to try to deal with this hostility. We have a very professional staff. We have a very fine facility opened in the summer of 1972. We have psychologists, social workers, very qualified teachers, special education teachers. We have vocational counselors that deal with working with the children and helping them in this diagnosis and evaluation so that we can help to make recommendations for placement where they can get the best treatment and the best program.

One thing in relation to that, in relation to our campus, it was said that they felt like they were in prison. Last year or in the past 14 months we have had over 5,000 visitors that have come to visit our campus; educators, doctoral interns, nurses, and students and parents and professionals to look at our program because they are interested in learning more about the kinds of programing that we have.

Another interesting facet in relation to the kinds of kids that we deal with is that in the past 14 months we also have had 95 employees that have been injured in trying to control some of the students who are destroying property or trying to do some other things or trying to maintain control. So, there is another facet of it that has not been told in relation to some of the children that we deal with and the problems that they have. I did want to share that.

Very quickly, one other thing: From April of 1981 until now, we terminated 30 employees from the Rader Children's Center. These were recommendations that we made to our supervisors and recommended to Mr. Rader. It was approved. Eleven were for abandonment of positions. Nine were for their inability to handle the job or insubordination. One was for sleeping on the job. Three were for excessive tardiness. Three were for too much physical contact; we felt they were getting personally involved with students. Yet, there was nothing that could be investigated as such. It was just our impression of what they were doing. But they were recommended for termination and it was carried out. One was for falsification of application, also bringing in some drugs. And then one, Mr. C., that we did terminate for excessive tardiness, unauthorized leaves, failure to perform assigned duties, falsification of work record, and a felony warrant for his arrest; we personally do not want him back on our campus. And then another one for inappropriately dealing with students and bringing them cigarettes.

So, we do dismiss employees. We do strive to have the best staff and try to provide the very best care for children that are entrusted to our care.

[The prepared statement of Mr. Daney follows:]

PREPARED STATEMENT OF HERSCHELL E. DANEY

(Re: Dolores B. Allegations)

On Thursday, February 11, 1982, about 11:00, I received a phone call from a fellow superintendent regarding false accusations by a Mr. William Treanor to this subcommittee regarding my behavior with a student at the Lloyd E. Rader Children's Center. On February 12, 1982, I read in the Muskogee Phoenix the statements presented by William Treanor to the subcommittee. I quote: "One girl, now released, said Herschell Daney, the Superintendent of the Rader Diagnostic and Evaluation Center in Sand Springs, fondled her and hugged her last year -- she remembered -- on the same day President Reagan was shot." These accusations were a shock to me, to my many friends and associates, and to my relatives. We were shocked not only by the false character of the accusations, but by the fact that our United States Senate had allowed broadcast of such allegations without considering the effect on individuals in institutions, or at least attempting to determine the accuracy of the charges.

Indeed, neither the Subcommittee investigator nor anyone else associated with the Subcommittee made any effort to check on the accuracy of the allegations before they were broadcast before the Subcommittee. I was not contacted and given an opportunity to comment; no one else at the institution was contacted. No effort was made to check records in State Office files or to interview State Office personnel on these particular accusations. No attempt was made to review the case file on the juvenile who allegedly made the original accusation. The file shows that she has a long history of violent anti-social conduct and false statements.

The accusations against me were of course false. Agents for the Oklahoma State Bureau of Investigation came to me recently and told me that they had interviewed the girl identified by the Subcommittee investigator. She told the OSBI that I did not fondle her.

For over 34 years I have worked with children throughout the United States -- in the slums of Kansas City, in Indian colonies in Oklahoma, in Christian Centers, in the urban cities, with Indian children on the reservation, with children in Washington state, with college students, high school students and junior high students in California, Washington and Oklahoma; with retarded children in the State of Washington, and for 14 years in the State of Oklahoma. This is the first time that any allegations have been made against me regarding my conduct with these children. It was reported in three newspapers in Oklahoma that I know of, the New York Times where my relatives read about it in Florida and California. The report on Herschell Daney was multiplied a thousand times in the many reports that have since then been given by the Gannett news media, again without ever checking to determine whether the stories were true or not.

I am only one of several thousand employees who are dedicated to helping children and not hurting them, but who have had to defend themselves against irresponsible allegations such as these. Reputations and professional careers have been damaged by the unfounded accusations that have been published. I believe the people of Oklahoma, as well as the employees of the Oklahoma Department of Human Services, have been hurt by the dissemination of these false charges.

* * *

When the Oklahoma State Bureau of Investigation came to the Rader Children's Center to begin to investigate all of the allegations made before this Subcommittee, we -- the institution and staff -- cooperated wholeheartedly with their investigation. Our staff spent many hours going over files and reporting to them anything relating to any kind of allegations of abuse or injury to children at the Rader

Children's Center. The Rader Children's Center is an open campus. Last year we had 5,000 visitors that came to this campus looking at our programs and touring our facility -- training personnel, juvenile care and treatment professionals, parents, student interns, public officials, doctoral externs and nursing students -- to learn about the diagnostic and evaluation treatment programs at the Rader Children's Center.

Last year 75 employees were injured by residents at the Rader Center. Perhaps what the Subcommittee and others fail to understand is that some juveniles, not just delinquents, must be dealt with in an institutional setting because they cannot be handled or controlled in any other environment. At the Rader Children's Center we recommend placement for juveniles where their needs can be met most adequately in order to help them to become happy, useful citizens in our communities. This placement begins with the least restrictive environment such as their own homes, a foster home, a group home, boys' ranch, or whatever private institutions are available to meet the juveniles' needs.

On June 16, 1964, I began as a Recreation Therapist Aide at the Hissom Memorial Center and as an employee of the Department of Human Services. I have continued as an employee of the Department to the present time. In these years of working with juveniles, I feel the Department has done an outstanding job in the continued development of programs and facilities for all those entrusted to our care. From my observation, the minute that Lloyd Rader and his Department are assigned an additional unit of responsibility substantial improvement is initiated. It is my hope to continue to be a part of such an exciting and caring agency.

(Re: Tony B.)

The Department has a recognized procedure that whenever anyone goes onto an institutional campus, and I mean anyone, including Lloyd Rader, that person goes first to the Superintendent, or in the absence of the Superintendent, to the person who has been designated to act in the capacity of Superintendent. The individual advises the Superintendent of his reasons for being on the campus and what he intends to do while at the institution. This procedure has been scrupulously followed as long as I have been associated with the Department. It is an essential procedure, for the Superintendent is responsible for everything that occurs on the campus, and the rule is the only way he can know who is on the campus at all times.

The Tony B. matter came up in October 1979 when I was Deputy Superintendent at Helena. At the time, the Superintendent was away from the campus and I was acting as Superintendent. I discovered that a Mr. Ballinger from the State Office was on the campus and that he and Gary Midkif, the campus Advocate Defender, were interviewing employees and residents regarding an alleged incident which had happened a day or so earlier. I did not object to the investigation. I did vigorously object to their failure to notify and advise me of their being on campus and of the purpose of the visit there. In accordance with what I believed to be my duty, I took steps to intervene. I also immediately notified the State Office and vigorously objected to the procedure.

As I recall, that particular activity was terminated, although Mr. Ballinger did file a preliminary report on the allegations. Subsequently, and in proper fashion in keeping with the procedures of the Department, the matter was most thoroughly investigated by the Office of the Inspector General and by personnel from the Institutional Services Division. I cooperated fully and assisted in this investigation. I am confident the matter was more than thoroughly investigated.

If I discovered a similar situation today at the Rader Center, where I am Superintendent, my reaction and my response would be the same as it was in October 1979. I note in passing that to my knowledge, the only breach of these procedures since the occasion which I have just described occurred in the last several months in connection with visits to the institutional campuses by news media and on one occasion by Senate Subcommittee representatives.

(Re: Ronnell H. and Dewayne [redacted] C.)

Dewayne [redacted] was assigned to the Lloyd E. Rader Children's Diagnostic, Evaluation and Treatment Center and entered on duty on December 8, 1980. He was transferred from Boley State School to the Rader Children's Center after he had been reinstated by the State Personnel Board. [redacted] was used first in Cottage Two in the Treatment Center and later was moved to the Cottage for Aging Students on our campus. It was in this assignment that problems regarding [redacted] attendance were first identified. His coworkers and supervisors observed that [redacted] was not at work. He regularly failed to call his immediate supervisor about absences. We also found that he was leaving early from the campus without authorization, although his sign-in sheet indicated that he was here. This absenteeism and tardiness prompted a review of his work records and we determined that he was falsifying his time sheets.

On further investigation we also found that students were not receiving the program for which [redacted] was responsible. Indeed, we determined that [redacted] had made false statements to his supervisor regarding completion of his duties. I remember one specific matter where a student was "aging out" with no home placement and no clothes or other arrangements. These matters had been [redacted] responsibility, and [redacted] had reported to his supervisor that all arrangements had been completed for this particular resident. They were not. As a result, other staff had to work through the weekend to make arrangements for the student's home placement and clothing. [redacted] had simply failed to do his job and lied to conceal his failure.

Finally, we discovered early this year that the Police Department of Okfuskee County was in search of [redacted] and had been since May 1981, with a warrant for his arrest on felony charges (bad checks). Obviously, this raised serious questions about [redacted] status as a role model for our students. In February 1982, these charges were still unresolved and there was a warrant for his arrest. So, it was for these reasons that Mr. [redacted] was terminated in February:

1) Excessive tardiness
2) Unauthorized leaves
3) Failure to perform assigned duties
4) Falsification of work records (time sheets)
5) A felony warrant for his arrest.

Senator NICKLES. Thank you. Senator Boren, I wonder if you and I might make an agreement. I have one question for each person. If I will limit myself to 10 minutes of questions and if you will limit yourself to 10 minutes of questions, then we possibly will have time for Mr. Keating and also Mr. Sharp to give their statement and still adjourn at a decent hour.

Senator BOREN. I think that is very good. In fact, we might start a dangerous precedent for the U.S. Senate if we did that. It might be helpful to the conduct of public business. We will sure try to do that.

Senator NICKLES. Mr. Daney, I will start with a couple of quick questions. You terminated Mr. C. for the second time. Now we have information that he may be reinstated. Does it bother you that the merit board may reinstate him a second time?

Mr. DANEY. Yes. As I indicated, we do not want him on our campus.

Senator NICKLES. Were you asked to testify or appear before the merit board to give some statements as to why Mr. C. should not be reinstated?

Mr. DANEY. His immediate supervisor was, who dealt with him.

Senator NICKLES. Was that someone under you?

Mr. DANEY. Yes, at that time.

Senator NICKLES. Evidently the case that was presented was not sufficient if the merit board would vote to reinstate him.

Mr. DANEY. Apparently it was not.

Senator NICKLES. Would you recommend to the department that they appeal that reinstatement?

Mr. DANEY. Yes, I would.

Senator NICKLES. I would hope that you would, and wish you success

Delores mentioned that in your institution that a person exposed himself several times in front of her. I am not sure you were superintendent at that time. Do you know whether or not that is true?

Mr. DANEY. No, sir. We could not find anything to substantiate that. I think Mr. Brown also investigated that, personally investigating every security officer that we had. Plus, I received a call yesterday from a person who said she was a roommate in the same room with her and that she did not observe any of that.

Senator NICKLES. You mentioned that you terminated 30 people in a period of time. Is that number correct?

Mr. DANEY. Yes, sir.

Senator NICKLES. Do you have the authority to terminate, or is that decision made by someone else?

Mr. DANEY. No, sir. I recommend to my supervisors and they recommend to Mr. Rader. Then he has, he followed our recommendations.

Senator NICKLES. The final say-so is made by Mr. Rader?

Mr. DANEY. Yes.

Senator NICKLES. Mr. Daney, a special reason I wanted you to be here is to state my apology. When the committee in our initial hearing began using individuals' names, I requested that we stop that practice. I was very concerned that a State employee and/or an individual might be incorrectly accused and tried in the press. Not only for that individual but for their families and for their associates and friends a mistake like that could be very damaging. Because your name did get out, I think by Gannett, a story did appear in the press. I certainly did not want that to be exacerbated. That is why in this hearing we have not used names, and I think that is appropriate to do.

Mr. DANEY. Mr. Treanor used it on the television program because it was picked up in Oklahoma by people watching the program, and he did call me by name.

Senator BOREN. The apology was on?

Mr. DANEY. No, the initial——

Senator BOREN. I notice they are not carrying this part of it now. Have you been given an opportunity by the television channel that carried the allegations against you live to have it stated on the air that you have received an apology from the committee? I think the protection of reputation is so important. I just express the hope that you do have that opportunity, and surely they will give you that opportunity.

Senator NICKLES. Mr. Leitka, I have a question for you. I realize you did not make a statement. Your position is assistant advocate general. Is that correct?

Mr. LEITKA. Yes, sir.

Senator NICKLES. You are familiar, I am assuming, with the State law that says that the State will immediately investigate an abuse report and forward its findings to the district attorney in the office in the county wherein the suspected injury occurred, together with his recommendation as to its disposition, are you not?

Mr. LEITKA. Yes, sir.

Senator NICKLES. Has that practice been followed?

Mr. LEITKA. Our policy right up until March was that I do not have a position or authority or power to make any movement. I can recommend. I can do preliminary investigations. After I gather information and findings, I can make recommendations to my supervisor, who is the advocate general, an attorney. He then in turn can make recommendations after talking with the other division supervisors.

Senator NICKLES. Who makes the decision whether it is to be deferred to the county district attorney?

Mr. LEITKA. Now, today it is the child welfare division.

Senator NICKLES. The child welfare division?

Mr. LEITKA. Yes, sir.

Senator NICKLES. Headed by whom?

Mr. LEITKA. Child welfare is part of the DHS agency.

Senator NICKLES. Headed by Mr. Rader?

Mr. LEITKA. Yes, sir.

Senator NICKLES. Did you find in the past that referrals were made to the county district attorneys?

Mr. LEITKA. I cannot remember any of them.

Senator NICKLES. You cannot remember any of those being made to the county attorneys?

Mr. LEITKA. If they were, there were a few. I just really cannot remember.

Senator NICKLES. You do not remember any of them?

Mr. LEITKA. Of any of them being referred.

Senator NICKLES. What about this year?

Mr. LEITKA. I just have to make an estimate. Probably 20, 22.

Senator NICKLES. Mr. Shafer, you touched on that. Would you say that that is correct, that there is only a few referrals that were made previous to this year, but there have been numerous referrals made this year?

Mr. SHAFER. I believe I touched on that in my statement. The system was not as formalized as it is today. I do not think it would be quite accurate to say there were hardly any. As I review it in my own mind as superintendent and talking to other superintendents, in the case where there was injury to an individual, then the superintendent would make a referral to the district attorney.

Senator NICKLES. I think the committee staff has asked this, but I never have been able to understand it completely. Could you show us any cases where the referrals were made and prosecution insured prior to this year?

Mr. SHAFER. Could I show you any?

Senator NICKLES. Yes.

Mr. SHAFER. Yes, I believe we can. Now, I cannot recall the names right today.

Senator NICKLES. For the record, if you could just supply that information to us for those individuals when the referral was made.

Can you tell us how many referrals have been made this year?

Mr. SHAFER. This year I cannot. I think Mr. Leitka has that information. But I would like to say——

Senator NICKLES. That is fine. I am not trying to cut you off. I am going to have to leave to vote. I will just have to recess. I only have 5 minutes. If you all will remain here, I basically just have one brief question, and then Senator Boren will have 10 minutes; and you all will be released.

Mr. GORDON. Senator, may I address that for a minute?

Senator NICKLES. Yes. Let me leave to vote and then you can.

[Recess taken.]

Senator NICKLES. We will begin again. I will just conclude with one short question.

Mr. C. MILLER. Senator, you had one pending question when you left. Mr. Gordon was about to answer it.

Senator NICKLES. Excuse me. Mr. Gordon?

Mr. GORDON. Senator, you had asked about some incidents where there have been referrals to district attorneys for prosecution. I am going on memory now. I do recall an incident at Helena in which there were some drugs being brought in and sold by some of the house parents. The house parents were terminated. The district attorney did prosecute that or take action on that, to the best of my memory.

There was another one at Whitaker involving alleged sexual relations between a worker on the campus and one of the girls. The initial investigation indicated that it was supposedly the girl that was at fault. But after a thorough investigation it was discovered that that was not the case at all. That matter was referred to the district attorney for prosecution.

I am sorry. Again, it is strictly from memory. I do not have the names on some of these.

Senator NICKLES. Have there been many referrals this year?

Mr. GORDON. I do not know, Senator, about this year. I have not been involved in the juvenile program specifically this year.

Senator NICKLES. I have one further question on referrals. Would you recommend that prosecution be taken in the case of Mr. C, the one that was involved in the sodomy case and terminated twice by Mr. Daney? Specifically in reference to his involvement in sodomy with a youngster.

Mr. GORDON. I think certainly, of course, the district attorney should have the right to decide on that based on what evidence he feels can be gathered in that particular case. It was my general feeling at the time, if you asked for an opinion as a lawyer, that the evidence probably was not sufficient to sustain it because we could not get any corroborating evidence, no other witnesses who would be willing to testify at that time.

Senator NICKLES. I was thinking that a couple of the other youngsters would validate what happened, and one or two would take lie detector tests.

Mr. GORDON. The lie detector test, of course, would be inadmissible.

Senator NICKLES. I am aware of that.

Mr. GORDON. We use it as an administrative tool and, of course, take some steps sometimes based upon its decisions. But in this particular case the young man who apparently saw it, when he got down there to testify, refused to testify.

Senator NICKLES. Did you have a question, Mr. Garrett? I asked you a couple of questions about two of the employees, Mr. A and Mr. C, both of whom I thought had a criminal record. Did you find that to be the case?

Mr. GARRETT. Mr. A that you—I think the person you are referring to did not show up on a computer run that we did.

Senator NICKLES. You did a computer run?

Mr. GARRETT. He did not show up on the computer run. That is not to say that it is guaranteed that he does not have an arrest record or a conviction record.

Senator NICKLES. What about——

Mr. GARRETT. Some of the identifying information that we have may not match the identifying information that is in the FBI files.

Senator NICKLES. What about in the case of Mr. C who was terminated twice?

Mr. GARRETT. No, sir, he did not show up.

Senator NICKLES. I have a Xerox copy of something that does show previous serious criminal charges, of which I think you need to be aware. I think you should have some input on this. Hopefully, Mr. Daney, you will appeal and, hopefully, you will be successful. I think that this will just have some growing background in the case that should substantiate that this person should not be working in a juvenile institution with children.

Mr. GARRETT. Like I said before, Senator, our run only came up with four persons that were positive. We could be talking about some of the same people here; I am not sure. I would be glad to furnish you with a confidential record. Since we are talking about confidential information, I would be glad to furnish you with a complete record of the persons that I did come up with on the FBI register.

Senator NICKLES. I would appreciate that. Also, we will provide you with the information that we have discovered that quite possibly came from your files, not necessarily yours, but department files or other files that we have been associated with on some of these individuals. I think it is very important.

I have a quick question Mr. Rettig. I have been active and associated with Chuck Colson's Christian outreach. You have been an inmate. Are you familiar with Chuck Colson's Christian outreach which is in use in many prisons and institutions?

Mr. RETTIG. Yes. I hosted Colson's prayer breakfast in Tulsa 3 years ago, I believe it was.

Senator NICKLES. He is a good friend of mine. I visited various institutions in Oklahoma. I found that there were chaplains involved in these institutions, but in most cases they did not seem to have a community outreach that would try to come in and begin a personal relationship with some of the youngsters. The programs that Mr. Colson has been able to establish in many of the major adult institutions have been enormous successes and helped turn around a lot of individuals' lives.

I visited with Senator Young and some other people from the State of Oklahoma who are very interested in this. They indicated to me that they would love to work with the department officials to see if they could have a more active outreach program. The focus of the program would be to go into some of these institutions to attempt to plant some seeds and help some of the children spiritually as well as mentally to redevelop their lives. The program would be strictly voluntary on the children's part.

Would you concur that that might be beneficial?

Mr. RETTIG. Yes. I would have to testify that a significant aspect of my change has to be characterized as redemption. You can talk about rehabilitation and bringing somebody back from where they were before, and in my case that is legitimate. I was an upper-middle-class person that rebelled and went to the streets. My change was due to a redemptive process, ongoing redemptive process in my life. A lot of that was through the assistance of volunteers who came into the institution.

I have to say that we do have in most of our institutions a relatively effective volunteer program. It is not the easiest thing in the world to interest children in turning out for these from time to time. But we are very active at Bowie and previously were very active at Helena before it closed. The other institutions, I am sure, are involved in the process of trying to get people to come visit.

I would like to make one more comment if I may, with regard to this matter of accessibility of records through the FBI. This is sort of a humorous incident that happened recently. About a year ago, I was invited to come to Canada to teach. I considered accepting that position. I had to gather all kinds of documents and so on and so forth. I went to the sheriff of Kingfisher County, who is a friend of mine, and asked him if he would mind accessing my rap sheet through the FBI. He said no, no problem at all. I gave him my aliases and all of my present numbers, my social security number, all the data. I came back in about a week prepared to receive that information and forward it to Canada. He said: "You haven't got any record; there's no record on you; you've not done anything; who are you trying to kid?" I said: "Look, you know the truth, don't you?"

So, he went to Seattle. He had to go to the State of Washington to the penitentiary where I had done time. He finally established that it was actually a situation and then went to the FBI and asked them to correct their records. They came back still with none. The third time they finally found some way to cross-match this, that and the other thing. They came up with a record.

I just submit that as evidence that perhaps records are not as accessible all the time.

Senator **Nickles**. I understand. Senator Boren, do you have any concluding questions for this panel?

Senator **Boren**. I think not. I know we still have Mr. Keating waiting to testify. So, I do not want to take any more time.

Let me express the hope to Mr. Rader and Mr. Baumberger and others present that we will proceed ahead, that we really will get those additional beds in the group homes. I hope we will continue with the expansion.

For the record, Mr. Baumberger, did you put in statements about the restitution program?

Dr. **Baumberger**. Yes; it is in there. It was in the background material, too.

Senator **Boren**. All right. I was going to ask, if it was not fully covered, that you submit for the record how many juveniles were involved in that. I think along with the proper kind of spiritual counseling that has been referred to with the group home setting, I happen to think from many points of view the idea of restitution is a good one. The young person in essence cleans the slate by working off their misdeed and making restitution. I think there is something very healthy about that. As far as I know, we have one of the wider uses of that experiment of any State in the country.

Mr. Chairman, I hope that we have attention paid to what Mr. Baumberger said in regard to a continuum of service. As the committee tried to decide what, if any, recommendations we can make in terms of improving juvenile programs and any Federal legislation and mandate, I certainly think the philosophy of a continuum of service is important. There are some young people who do not belong in a big institution but they cannot make it at home, or they cannot make it in a shelter, they cannot make it in a foster home. They may not be able to make it in a group home. So, you have to have a whole range or options to deal with different kinds of children with different kinds of needs.

I am a very strong believer in that philosophy. I commend it.

I would express that I am sorry that there has not been as much interest in the afternoon session in which we have gotten into a discussion of program as there was in the morning session. I am sorry there has not been as much attention paid, Mr. Daney, to the apology to you as there was given publication of the original accusation.

I think it is important that we try to focus in on programs, on constructive suggestions that we can make. That is the purpose of any U.S. Senate proceeding. It is my hope that we can learn from what has been shared in terms of both the weaknesses and corrections and I am encouraged by what I have heard in terms of statements about correcting these weaknesses. I hope there will be adequate personnel given to the inspector general to do background checks on employees as well as adequate personnel given to the legal staff to be able to build the cases we need against errant employees. I think both of those things are extremely important.

I hope that the news media will give broad coverage to the constructive things that need to be done in the State, including some of the things now under way that need further expansion in order to make the kind of progress that we need.

I give back half of my 10 minutes.

Senator NICKLES. I appreciate that, Senator, since Mr. Keating has a 7 o'clock plane.

Senator SPECTER. There may be some more questions which the committee will want answered, Mr. Miller. We will submit them to you for responses.

I have not been able to be present, as I think Senator Nickles or Senator Boren has already said, because there was an amendment on the emergency supplemental appropriation bill that I was involved in. I had proposed an amendment. I had to be present on the floor for the debate in addition to the votes. So, there may be some additional questions which the subcommittee will want to submit, which I might have asked had I been present. Subject to that, the procedure announced by Senator Nickles is acceptable.

Senator NICKLES. Thank you.

Mr. C. MILLER. We appreciate very much the opportunity that was afforded by the subcommittee today to let us come and be heard. I know the obligations you had made is not possible to hear all of our presentation this afternoon. Given the strong interest I know you have in this subject and the program aspects of it, I hope you will have the time sometime in your horrendous schedule to get a good solid briefing on what was discussed this afternoon.

At your request and Mr. Cohen's request, we did trim down very substantially the oral presentation. I would like to have the opportunity to submit for the record not only the responses to the questions that you are going to ask me but the questions that you have already asked and anything further that we have to submit on the material that came up yesterday that I did not put forth in the oral statement.

Senator SPECTER. The record will be open, Mr. Miller, for such submissions.

Mr. C. MILLER. Thank you, Senator. I appreciate the courtesy shown to all the witnesses by the subcommittee today.

Senator SPECTER. Thank you. We will hear at this time from Senator Keating, now U.S. Attorney Keating, and Mr. Don Sharp, who has been previously identified as the deputy director of the Oklahoma State Bureau of Investigation.

STATEMENTS OF A PANEL CONSISTING OF FRANK KEATING, U.S. ATTORNEY, NORTHERN DISTRICT OF OKLAHOMA; AND DON SHARP, DEPUTY DIRECTOR, OKLAHOMA STATE BUREAU OF INVESTIGATION

Mr. KEATING. Mr. Chairman and members of the committee, my name is Frank Keating. I am the U.S. attorney for the northern district of Oklahoma. Prior to my acceptance of this position in June 1981, I served as a member of the Oklahoma Legislature having first been elected in November of 1972.

While a member of the Oklahoma Senate, I served as a member of the judiciary committee and as vice chairman of the criminal jurisprudence committee. In 1979 and 1980 I was asked by the president pro tempore of our State senate and speaker of the house to chair a joint senate-house subcommittee on juvenile justice. Our committee was composed of members of both parties from both houses. We were charged with conducting an overview of the criminal justice system in Oklahoma as it applied to juveniles. First, our charge was to determine how the system worked and, second, to introduce legislation where needed to correct, reform, or expand State action for the betterment of the criminal justice system as it applied to juveniles.

We were asked to review our laws on delinquent children, those who committed adult criminal offenses, children in need of supervision, truants and runaways, and deprived children, those the victims of abuse and neglect. Where they needed change, we were requested to recommend change. For 10 months in 1979, primarily during the interim between our annual legislative sessions, our committee interviewed some 30 witnesses including police officers, judges, private child care providers, school officials, lay witnesses, and representatives of the Oklahoma Department of Human Services.

The department was pivotal in our inquiry because by law they were charged with oversight of all juvenile care in Oklahoma. They contracted services with private child care providers. They operated institutions for deprived, INS, and delinquent children and inspected both public and private child care homes. All along, the department insisted that they welcomed legislative input, which had been grossly inadequate to that point, and asked for our leadership to direct them and recommend change.

We also asked them specifically to advise us as to what changes they suggested. No one in the legislature seriously questioned the integrity of what the department was doing. This was so because there had been no scandal but, more importantly, because there was no interest. Everyone assumed DHS was doing a good job, and there was little impetus or interest to think otherwise. However, when we finished in 1980 the committee identified areas which needed legislative attention. We did not attempt to inquire into any specific allegations of abuse. At the time, a Federal lawsuit was pending in Oklahoma City, and we were informed that all of those issues were being thoroughly resolved in that form. Our committee did discover that deprived and INS children were routinely jailed in Oklahoma pending juvenile proceedings. Our first recommendation was to flatly ban the jailing of deprived and INS children. That bill was enacted into law and is the law of Oklahoma today.

We introduced and passed other measures which streamlined adult certification proceedings. We redefined delinquency and attempted to bring all institutions under child care licensing statutes.

The central part of our reform package, however, dealt with the Department of Human Services children's homes located largely in rural sections of the State. Our committee unanimously agreed that they were not in the long-range best interest of the children or the taxpayers. We advocated a move to a system of community-based treatment. It was unacceptable to note that truants, runaways, and deprived children were oftentimes mixed with delinquent youngsters and that the truants, runaways, and deprived were placed in juvenile facilities far from their homes. At the time, we did not know that the department was not willing to accept our leadership in telling them what changes were required.

When our community-based bill came to the legislature—and by the way, Mr. Chairman, that is very similar to the bill which passed and is presently pending before the Governor—it was considered by the social welfare committee of the senate. There the Department of Human Services actively opposed it and brought in senators friendly to the department to insure the bill's defeat. The members of my subcommittee were stunned that the legislative leadership beholden to Mr. Rader would be asked to attend a committee meeting and vote to kill a bill about which they knew nothing and which we, their subcommittee, believed was in the best interest of Oklahoma. From that point forward, we witnessed the department move from an interested advisor to that of lobbyist and legislator. The measure we sought to pass requiring legislative oversight of the department in juvenile matters was so watered down by the time it passed the senate that it was not worth passing.

It was then that my subcommittee discovered that our efforts would be tolerated so long as they did not interfere with what the Department of Human Services wanted. We did succeed in uncovering a substantial expenditure underway at the Taft facility near Muskogee which was planned for a vocational technical center for INS children. We pointed out that the expenditure was not needed because there was a vocational technical center already existent in the city of Muskogee and that to build another was a waste of money. Subsequently, the department stopped construction and turned it over to the Department of Corrections. At the conclusion of my committee's investigation we determined that our efforts were a nuisance and an irritant to the department, sufferable until, mercifully, we would go away. This was startling in view of the fact that they requested our leadership in telling them what changes we thought were needed in the system.

In every instance our bills were fashioned with a compromise view of getting their approval and/or to satisfy the majority of legislators who were friends of the department and who did not believe any changes were in order unless the department said they were. No compromise was possible in the case of the community-based treatment bill. It was killed outright, even though the department had said initially that it approved it. Each of the other bills was successful only if assurances could be given by colleagues in both houses that the Department of Human Services supported them.

It is difficult to say whether there are warts on the face of the Department of Human Services' handling of juvenile justice in Oklahoma. The legislature has never taken a real interest in the matter. Whatever interest it did take, as for example my committee, was guided and ultimately controlled by the desires of the officials of DHS. Bills which were supported by the department passed. Bills which were opposed failed. I have no independent knowledge that the case is any different today.

I might, Mr. Chairman, add as a postscript that the measure which was enacted by the senate and house and which is presently on the governor's desk did have the department's support. I was informed this morning by Senator B. Kane from Oklahoma City, the principal senate author, that the principal reason why that bill did have the department's support when a similar bill did not and was defeated 2 years ago was because of the Federal lawsuit in Oklahoma City.

That is the conclusion of my prepared statement. I am certainly willing to yield to questions.

Senator SPECTER. When you say it did not have support 2 years ago because of the Federal lawsuit, was not that lawsuit pending 2 years ago?

Mr. KEATING. Yes, Senator, but it was very much in the early stages. Not very much was known about the allegations or about the lawsuit. And nothing was known about it in the legislature.

Senator SPECTER. Do you think that the current legislation is adequate for the problems which exist in the Department of Human Services as they administer the institutions?

Mr. KEATING. Senator, I have not read the entirety of the bill. I talked to the senate author this morning, who informed me that he felt that 90 percent of the problems would be corrected by that legislation. The concern he has, of course, is that, once the bill is passed and once the problem appears to go away, everyone will lose interest and not be as vigilant as they should to make sure that problems like this do not reoccur. But it certainly goes a long way, sir.

Senator **Specter**. We would appreciate it if you would take a look at the legislation and give us your considered judgment as to whether it is adequate or what, if anything, ought to be added to it.

Mr. **Keating**. Very well, sir.

Senator **Specter**. When you were senator, Senator Keating, did you go to the department for suggestions for legislation which would be helpful in assisting in the solution of the problems which we have discussed today?

Mr. **Keating**. Yes, sir. Department representatives were asked as well as the other kinds of representatives that I mentioned in my statement.

Senator **Specter**. Did the department make any suggestions?

Mr. **Keating**. No, sir.

Senator **Specter**. Do you believe that amending the merit review procedure would be appropriate as a subject for legislation?

Mr. **Keating**. Well, I think it is inappropriate for me in my present nonlegislative position to make recommendations about legislation. But that is a problem which we were not aware of as a subcommittee.

Senator **Specter**. You are still a citizen.

Mr. **Keating**. Sir?

Senator **Specter**. You are still a citizen.

Mr. **Keating**. Well, I would say, based upon the hearing today, I would certainly hope that some sort of reform would be enacted.

Senator **Specter**. When you say that the legislation was defeated because of lobbying by the Department of Human Services, do you have personal knowledge of such lobbying?

Mr. **Keating**. Yes, sir.

Senator **Specter**. Who were the lobbyists?

Mr. **Keating**. The first meeting we had, the first time the bill was brought before the full social welfare committee of the senate, it tied 2 to 2. Or actually I should say the first time it was brought before the full social welfare committee of the senate, Mr. George Miller, Mr. Rader's assistant, walked into the room. The only two words I heard were Keating and deprived. And it was at that time that Senator Porter, who was the chairman of the committee, shut his book and said: "The next bill will not be heard; the meeting is adjourned." It was at that point that I took him aside and everyone else aside who were interested in this measure, which we had worked on for over a year or nearly a year, and said this is extremely important to the interest of Oklahoma; it is very long range but it is extremely vital to the encouragement of community based treatment. Mr. Miller in front of Senator Porter said: "Do you know what this will do to Whittaker, for example; those jobs are important, and it could conceivably close Whittaker; it would be bad for us to have to do that."

The next time we had a meeting, which was put back on the agenda the next week, I showed up with the subcommittee who are not members of the social welfare committee, and the leadership of the senate were brought in, specifically Senator Lane, to vote against the bill. It was defeated. In our State, Senator, members of the leadership, certain members of the leadership, though not members of committee, can vote in those committees. And the bill was defeated.

Senator SPECTER. Senator Nickles?

Senator NICKLES. I have no questions right now for Mr. Keating with the exception of this. In your tenure, did you visit some of the institutions?

Mr. KEATING. Yes. We visited all institutions. I did not, but I visited three or four. The rest of the subcommittee collectively or individually did visit all of them.

Senator NICKLES. Did you have an opportunity to visit with some of the children in the institutions?

Mr. KEATING. On some occasions but not all. The facilities that I attended, the children were not there. In other words, the children were not made available for the purpose of interviewing. It is not that we asked that they not be or that they be there. We merely interviewed the staff. Again, we had no allegations of any abuse.

Senator NICKLES. So, you did not really have a chance to determine whether or not any allegations were made at that time?

Mr. KEATING. That is correct.

Senator NICKLES. You did not hear yesterday's statements——

Mr. KEATING. I had just finished a jury trial and was on a plane.

Senator NICKLES. I am assuming you heard a lot today. Do you think things have deteriorated somewhat in the State institutions over the last few years? Do you think they are just surfacing? Do you have any perspective on this?

Mr. KEATING. We had, as a subcommittee, no allegations brought to our attention except those in the lawsuit. I talked to Mr. Novick, who was handling the lawsuit, and was informed by him that all these matters were being adequately taken care of within the lawsuit. Our charge by our parent committee was simply to reform the law.

I am hopeful that the actions of the legislature this year and the actions of this subcommittee will sufficiently clean up the problem if, in fact, there exists a problem today.

Senator NICKLES. Thank you.

Senator SPECTER. Senator Boren?

Senator BOREN. Mr. Chairman, I just want to thank Mr. Keating for appearing. He is well qualified for his current position. I know from having been a law school classmate of his as well as an associate in other matters. We would value your opinion after you have had time to look at the McCorkle bill and give us your opinion as to whether you think that is a pretty comprehensive solution or if other steps need to be made, or if you think there are things we can do at the Federal level in terms of either mandates or provision of funds for certain kinds of programs that might be helpful. We appreciate your appearance.

Mr. KEATING. Thank you, Senator.

Senator SPECTER. Thank you very much, Senator Keating.

Would you state your full name, Mr. Sharp, and position for the record, please?

TESTIMONY OF DON SHARP

Mr. SHARP. My name is Don Sharp. I am the deputy director of the Oklahoma State Bureau of Investigation.

Senator SPECTER. Mr. Sharp, in your capacity as deputy director of OSBI, have you had occasion to participate in the investigation of the matters which have been under inquiry here today in this subcommittee proceeding?

Mr. SHARP. In an indirect manner, Mr. Chairman, I have as an administrator, but not actually in the field working as an investigator.

Senator SPECTER. Did you discuss this matter with me in a very general way in the presence of Senator Nickles earlier today?

Mr. SHARP. Yes, sir.

Senator SPECTER. Would you repeat for the record at this point the substance of that conversation please?

Mr. SHARP. I was asked whether the statement that I saw in print that you repeated for me by Mr. Miller was accurate, and without——

Senator SPECTER. The statement that you are referring to is the one where Mr. Miller has on page 1: "This law enforcement body"—referring to the Oklahoma State Bureau of Investigation—"with the assignment of 40 trained agents has exhaustively investigated every allegation. Information available to us indicates that the OSBI has found no support for the allegations pertaining to the juvenile programs operated by the department."

That is the statement that you and I discussed?

Mr. SHARP. Yes, sir.

Senator SPECTER. What did you tell me with respect to that statement?

Mr. SHARP. I could not substantiate that from my knowledge of the investigation.

Senator SPECTER. And that in fact you knew it to be not true?

Mr. SHARP. From the information I have, that is not true.

Senator SPECTER. Senator Nickles?

Senator NICKLES. I have no questions, Mr. Chairman. The first page of their statement does somewhat hurt the credibility of the department. I personally did not conduct an investigation in these institutions but I did visit them. There were very serious allegations made of rampant drug abuse. I believe I saw enough to say that there is a serious drug problem in those institutions.

Would your investigation concur with that?

Mr. SHARP. Senator, with due respect, the Oklahoma statute which controls the Oklahoma State Bureau of Investigation is very specific on me relaying information out of an ongoing criminal investigation. That carries grounds of removal from office. With due respect, sir, I would not care to comment on an ongoing criminal investigation. I enjoy my office. I would not want to be the subject of any further proceedings in that area.

Senator NICKLES. I can appreciate that. I also can appreciate at least the fact of the OSBI stating that the statement that was made was incorrect. Some allegations that have been made do have some substance behind them. You are trying to proceed to turn some of those cases over to the district attorney's office. Is that correct?

Mr. SHARP. That is correct. Governor Nigh, since he has been in office, has a policy and he has made that very plain to all agency heads from the very beginning of his administration. Any time any wrongdoing or the insinuation or the allegation of wrongdoing comes to his attention, he will immediately forward that to the OSBI for an investigation into that. He has also carried forward with that. Every time we send any type of prosecutorial report to his office, I know of no instance where that is not immediately referred to the proper prosecutorial entity, wherever that would be and whoever would have the proper jurisdiction. Those reports have been made. They have been forwarded to the Governor's office. They have, I know for a fact, been sent to district attorneys for their prosecutorial opinion.

I think that, without getting into that area I care not to get into, I think there are some investigations that the district attorney is looking at very seriously that may ultimately wind up with criminal charges being filed against either past or present DHS employees.

Senator NICKLES. Some of those cases possibly being where DHS either did not terminate or terminated and reinstated employees that might presently still be on payroll as of today?

Mr. SHARP. I am not exactly certain of their status as of today. I do know that some of them have been in and out of employment. I do not know their exact status as of right now.

Senator NICKLES. Some of the employees that you are possibly turning over to the Governor are being turned over to local DA's offices where those employees had not had charges, their cases had not been referred to DA's previously?

Mr. SHARP. I believe there are two cases that had been referred to district attorneys previously. There will be some that will be new cases which stem from the allegations originally made back in February.

Senator NICKLES. When was the OSBI brought into this case?

Mr. SHARP. In February of this year.

Senator NICKLES. The senate had a meeting in February of this year. Was OSBI brought in before or after that hearing?

Mr. SHARP. I do not have the exact date, Senator Nickles. It was in, I believe, late February when we were asked to initiate our investigation. I do not have the exact date. We have been carrying on an ongoing investigation in that area for about 90 days.

Senator NICKLES. Staff informs me that our committee meeting was February 11 and that the OSBI was called in by the Governor February 25. I asked Mr. Rader and I will repeat my belief. With the seriousness of the allegations that have been going on since 1978, I have been somewhat dismayed that there has not been an investigation before by OSBI until after all this has uncovered. Some of these serious charges have been known to the department for some time because of the lawsuit that was filed by legal services and because we have seen some of the individuals that were involved in cases as serious as sodomy and brutality charges to youngsters. Those are cases that have been going on in some cases for over a year. For the OSBI just now to be brought into it seems to me late.

Can you give us a general idea of the degree or the depth of OSBI's investigation? There are hundreds of cases. We have highlighted a few. Are you halfway through your investigation or almost through?

Mr. SHARP. I asked for a computer printout before I left Oklahoma 2 days ago. They advised me to the first week of May of this year, which would be approximately, I think, 8 or 9 weeks into the investigation. We have expended somewhere in the area of 12,000 to 13,000 employee hours. We have interviewed approximately 1,400 individuals. We have traveled, I think, into 17 or 18 different States looking for individuals. Our total expenditures to date—and some of this is an estimate because we do not keep exact expenditures on it, such as telephone and things—is now approaching $200,000 on the investigation.

At this time, the best I can tell, we are getting close to about a third of the way through the investigation. We are trying to interview every individual that has been into the system. Our problem now is getting into some of the people that are referred to as aged-out or now out of the system. They have left but they are vitally important to contact those people for information relevant to the case.

Senator NICKLES. Thank you.

Senator BOREN. Are you appearing today at the direction of the director of the State Bureau of Investigation?

Mr. SHARP. Yes, sir.

Senator BOREN. A word of explanation in regard to Senator Nickles' earlier question, the OSBI cannot begin an investigation on its own initiative, can it?

Mr. SHARP. No, sir, they cannot.

Senator BOREN. It must be under our State statutes directed by the Governor or by another person in authority under the statutes designated by the statutes to commence an investigation, is not that correct?

Mr. SHARP. Yes, sir, that is correct. The way it is set out, Senator Boren, as you well know, I believe you were Governor when that bill passed and you signed that bill, it requires the Governor or the attorney general or someone from the district attorney's office or sheriff; it goes on with seven different agencies or entities or individuals. None of those are the Department of Human Services, are they listed or would they have the authority to make such a request. It must be through the Governor's office, which would be the logical route. The way that we have generally got into investigations concerning DHS is through the Governor's office.

Senator BOREN. I would gather that preliminary reports, at least as far as the status of the investigation at this point, have been forwarded to the Governor's office, at least as far as the investigation has proceeded. In other words, if you have referred the matter for prosecution to the district attorney or if you have made a conclusion as to a particular individual, employee, or former employee, that those kinds of reports have now been transmitted to the Governor's office.

Mr. SHARP. Yes, sir, as we finish each individual allegation and the report is completed, that is forwarded immediately to the Governor's office for their consideration. I do not have the exact numbers, but I can give you or I do know that there are numerous reports that have been sent. I believe the chief counsel referred this morning as to the numbers when he spoke to the Governor's office back in Oklahoma. But there have been a considerable number of reports that have been finished and sent over.

Senator **Boren**. In the testimony this morning there was some confusion in Mr. Miller's testimony; I found it rather contradictory. I am talking about Mr. George Miller now. Apparently he conferred with counsel as to the reason for making the statement. He said that he had been told by counsel that the statement was accurate that he made in his remarks today.

Do you have any knowledge whatsoever of any information of any kind or any kind of statement being transmitted by the Bureau of Investigation to the legal counsel or to the department at this point?

Mr. **Sharp**. No, sir, I do not.

Senator **Boren**. So, you do not have any knowledge of why or on what basis Mr. George Miller may have felt that he had received any kind of comment that indicated that there was no—I have forgotten the exact language, but that there were not any——

Mr. **Sharp**. I am in a very poor position here to speak for Mr. George Miller. Some of the things that he may have been referring to are the cases that have gone to DA's so far. There have not been charges filed. There have not been arrest warrants issued up to this point, today. Let me back up to this morning, maybe this afternoon.

Senator **Boren**. Yes.

Mr. **Sharp**. But, in that regard there may well have been, if he was using that as background information, nothing that we have done would substantiate wrongdoing as far as to the point where charges could be or would have been——

Senator **Boren**. Nothing you have done to this point has led to the filing of charges at this point. But that does not necessarily mean that it may not before the investigation is completed.

Mr. **Sharp**. Yes, sir.

Senator **Boren**. To further clarify so that we have a clear understanding because, having been through this myself, very often in terms of investigations which I ordered as Governor, you are constantly being questioned about the status of investigations before they are completed. I gather from your comments that the kinds of allegations that you say may be substantiated at this point relate to individual acts of wrongdoing by employees or former employees as opposed to a systematic conspiracy, let us say, departmental conspiracy, to encourage drug traffic or those types of things. In other words, are the instances of wrongdoing which you think are potentially or possibly at this point in the investigation prosecutable, do they relate to individual acts of wrongdoing as opposed to, say, departmental conspiracy on a broader scale?

Mr. **Sharp**. The investigation where we are now, without getting again into that area, I do not see anything that would indicate a large conspiracy by anyone to violate anyone's rights or to carry on any criminal conspiracy or conduct. There are certain areas that involve maybe one or more individuals. But, as far as any large conspiracy or anything like that, I do not see.

Senator **Boren**. It related to either individual acts by employees or former employees or small groups of employees or former employees that potentially at least may be subject to prosecution.

Mr. **Sharp**. That is the allegations that we have received and we are investigating. I might add that I believe there were initially 20-some allegations that we started with. In all of those allegations we prioritized them because of manpower. We have at times, as was alluded to earlier, 40-some agents on this case. That may not seem like a great deal of manpower; but, when you put that in perspective when you have 60-some agents, that indeed is a great deal of manpower that we are expending on this project.

I would also like to comment. We have asked the Department of Human Services for material on numerous occasions. They have always come forthwith, and very quickly, to anything we have asked for.

Senator **Boren**. Have you had the full cooperation of the agency in all of your investigations?

Mr. **Sharp**. Yes, sir, we certain have. I asked again today to make sure I did not get here and misstate that. They said that they have no occasion to their knowledge that we have ever been denied any information that we have asked for.

Senator **Boren**. I want to commend you for your testimony and commend both you and the director for being forthcoming and making sure that the committee has a very clear record as to the status of the investigation.

Mr. Chairman, we are very proud of our State Bureau of Investigation. When the deputy director referred to having over 60 agents, 40 on this case, I take some special pride in that because there were only 12 agents in the entire department at the time I became Governor. We got up to a little over 40 by the end of the 4 years, and it is growing since then. We have our own academy. We have had professional training. We are very proud of the professionalism of this agency, as I think the deputy director has demonstrated in his appearance and attitude today.

Mr. **Sharp**. Thank you, sir.

Senator **Specter**. Thank you very much, Mr. Sharp.

I was not here when Superintendent Daney was provided an opportunity to testify. I know he has testified. I just want to say, as the subcommittee has already communicated to him, the subcommittee's regret about the error. When it was determined, the communique was forwarded on the first opportunity. Ms. Delores Briscoe was present yesterday. She testified about the subject matter. Ms. Briscoe has requested an opportunity to respond to statements which were made. The subcommittee will give her that opportunity now.

Would you come forward, Ms. Briscoe? You are already under oath. That oath is continuing.

You have asked for an opportunity to speak again relating to comments which were made about your testimony?

Ms. **Briscoe**. Yes, sir.

Senator **Specter**. What is it you would like to say to the subcommittee?

Ms. **Briscoe**. Well, for one, I feel very bad about the things that they said about me, you know, considering that they said I had lied about certain things. For one reason, I do not have to be here on none of this because I am 18 and I am grown. I do not have to care about nothing that happens in institutions, but I do.

The certain points that I would like to make on is the phone call in my records.

Senator SPECTER. Proceed.

Ms. BRISCOE. They had called me, Right? CRCS, which is a department on the DHS in Muskogee, they had called me and asked me could they release my records to the public. I wanted to know why they wanted to release them. I did not understand why they would because that is my personal business what I did. And certain things in the records are not true.

Senator SPECTER. Are you saying you did authorize the release of your personal records?

Ms. BRISCOE. I never authorized the release of my records.

I called Mr. Miller. I did not know that the other man was on the phone.

Senator SPECTER. Mr. George Miller?

Ms. BRISCOE. Yes, Mr. George Miller. And he had asked, or I had asked him what did he want my records for. He had said that he did have them. I do not understand why he should get them while I could not.

Senator SPECTER. Why Mr. George Miller could get your records and you could not?

Ms. BRISCOE. Yes.

Senator SPECTER. Did you ask for your records?

Ms. BRISCOE. I asked for my records at the CRCS department in Muskogee. They said that I could not have them. I wanted to know, since they were not going to Miller, who were they going to.

And another one was, well, I do not want to make public anyway.

When I went to Rader D&E when I was strip searched, I did not understand why I have to be searched again. I had just left the Muskogee police department. I was handcuffed. I had been searched there. In one of the booklets or paper they have stapled over there, it has in there that they—well, they thought that I had something on me. Where am I going to get something between the jail and D&E handcuffed, and I had been strip searched thoroughly there. I went and got strip searched thoroughly there when I first came in again. Then after that I got searched again when I went to the cottage. They said this was procedure that they have to go through. I do not think so because why would they search me—well, that is three times. I do not understand why.

And another one is, on things that I did not report and why they did not find any evidence, I explained why I did not do that yesterday. But they made it more obvious today why I did not. Well, some act like they care, and some do not. I do not know. Still, I did not report it. The children that do report it, you know, they act like they just want to deny everything. I think it is wrong. They should listen and start caring about them and do something about it.

That is all I have to say.

Senator SPECTER. Thank you very much, Ms. Briscoe.

Mr. TREANOR. Senator, if I could just add a few words. The statement that was released yesterday contained quite a bit of information about Delores' social history, including statements——

Senator SPECTER. What statement is that, Mr. Treanor?

Mr. TREANOR. The submission from the Department of Human Services that we received yesterday morning.

Including statements that Ms. Briscoe's statements were basically a complete fabrication. I had occasion when I was in Oklahoma in February to speak to Superintendent Wilbur Williams at the Taft school, the man in charge of the institution where Delores spent most of her time. He told me when I asked him about Delores that she was a very truthful person and that I could believe anything she had to say.

Senator SPECTER. Is that all, Mr. Treanor?

Mr. TREANOR. That is all, sir.

Senator SPECTER. Thank you very much. On behalf of the Subcommittee on Juvenile Justice of the Committee on the Judiciary, we thank all parties who have been present here today for providing the information to us.

The hearing is adjourned.

[Whereupon, at 6:29 p.m., the hearing was adjourned.]

APPENDIX

PART I.—REPORT ON ABUSE IN JUVENILE FACILITIES *

I. INTRODUCTION

In January, 1982, the Senate Subcommittee on Juvenile Justice began an investigation into allegations of abuse and misconduct in juvenile institutions run by the Oklahoma Department of Human Services. Public hearings were held on February 11, May 26 and May 27, 1982 to examine these allegations. These proceedings to investigate serious and widespread abuse were prompted by the need to determine fundamental questions raised about the guarantee of basic constitutional rights of juveniles in official custody. This inquiry found conditions in Oklahoma in sharp contrast with the progress being achieved elsewhere under the auspices of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415) and has implications for its annual funding, reauthorization and its potential amendment.

Among the purposes of the federal juvenile justice legislation are preventing delinquency, strengthening the family unit, assisting state and local governments and private and public agencies to improve juvenile justice, providing training for those who work with young people in custody, and generally combatting the enormous costs and immeasurable loss of human life, personal security, wasted human resources and the threat of the national welfare that is represented by juvenile delinquency and crime.

Central to the Juvenile Justice and Delinquency Prevention Act is its mandate to remove from secure detention or correctional facilities juveniles who are in custody for activity that would not be criminal if committed by an adult. There has been a national consensus since at least 1974 that such juvenile status offenders and nonoffenders should be deinstitutionalized.

Six states, including Oklahoma, have chosen not to participate in the juvenile justice program. The testimony at these hearings, discussion with institutionalized juveniles, formal and informal interviews with officials of the Oklahoma Department of Human Services, interviews with experts in the field of juvenile justice and the review of hundreds of documents produced for the Subcommittee by the Department reveal that the significant problems encountered by young people served by the Department stem in large part from the state's failure to achieve deinstitutionalization of juveniles, to employ less restrictive alternatives appropriate to the needs of the individual child and to emphasize the support of the family unit and community-based alternatives to institutional detention.

II. HISTORY OF INVESTIGATION

On February 4, 1982, William W. Treanor, staff investigator, began a 6-day visit to Oklahoma to investigate reports of widespread abuse in juvenile facilities maintained by the Oklahoma Department of Human Service ("DHS"). Upon his arrival, he immediately contacted and met with Mike Fogarty, Deputy Director of the Oklahoma Department of Human Services. Mr. Fogarty, in turn, notified Lloyd Rader, Director of the Department, of Mr. Treanor's arrival and of their meeting.

Mr. Treanor met with over a dozen other people personally familiar with the operation of DHS's juvenile institutions and visited the Oklahoma City Children's Shelter and the Oklahoma Children's Center in Taft. One juvenile in the custody of DHS and three recently released young adults gave Mr. Treanor signed and witnessed statements concerning their experiences while confined in four of DHS's six juvenile institutions. In addition, Subcommittee staff reviewed approximately 150 written reports detailing abuses at these institutions.

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* The Subcommittee wishes to acknowledge the significant contribution made by Stephen M. Sendar to this report.

The results of this preliminary inquiry were examined at the first opportunity—on February 11, 1982, at a regularly scheduled Subcommittee hearing to explore federal financial assistance to state and local law enforcement.

The allegations aired at the February 11 hearing warranted further Subcommittee inquiry. As Senator Boren noted on the 11th of February:

"I think you should vigorously proceed and determine all the facts, and I certainly think that the allegations themselves—the weight of the allegations themselves—that have been brought forward this morning gives a very sufficient basis to you, I would say mandate to you, to proceed; and that you should proceed and try to uncover all the facts . . . and that we should get to the bottom of all of it, and that we should also examine the philosophy on which this approach is based."

In the two months following the February 11th hearing, the Subcommittee staff continued the investigation. The staff received unsolicited letters from parents, former wards and employees of DHS. Inquiries were continued and contact with key people involved in the management and operation of DHS's juvenile institutions was maintained.

On Tuesday, April 13, Subcommittee Counsel Mary Louise Westmoreland and Mr. Treanor traveled to Oklahoma to continue the investigation. They met with Governor Nigh and his staff, members of the state legislature, the Attorney General and his staff assistant, officials of the Oklahoma State Bureau of Investigation (OSBI), and others concerned with the operation of the state's juvenile institutions. They conducted formal interviews with 15 current employees of DHS. In each case an attorney for the Department was present. Informal conversations took place with other employees.

The Subcommittee staff visited the Central Oklahoma Juvenile Treatment Center at Tecumseh (COJTC), the Boley School for Boys, Whitaker Children's Center in Pryor and the Rader Center in Sand Springs. The visits lasted from two to six hours. During these visits they talked with approximately 35 juveniles currently in the care and custody of DHS. Three of these young people, representative of the juveniles found in these institutions, accepted the Subcommittee's invitation to appear as witnesses at the May hearings.

In the weeks following their return, the Subcommittee staff reviewed hundreds of official reports of the Department of Human Services reporting allegations that juveniles under the care and custody of the Department had been abused or mistreated by staff at these institutions. In addition, the Subcommittee reviewed other documents eventually provided by the Department after repeated Subcommittee requests, including depositions taken in the case of *Terry D.* v. *Rader*, policy manuals, and correspondence.

The Subcommittee's invesitgation revealed that the following areas merited exploration at the May hearings:

A. whether a pattern or practice of physical abuse of juveniles existed in the treatment and care facilities maintained by the Oklahoma Department of Human Services;

B. whether responsible departmental officials tolerated staff misconduct;

C. whether incidents of abuse were consistently and thoroughly investigated;

D. whether the placement of deprived children, status offenders and nonoffenders in secure detention facilities contributed to the incidence of abuse and future delinquency;

E. whether children were held in adult jails;

F. whether the selection and training of personnel working with the children in custody fostered abuse; and

G. whether criminal conduct was reported to law enforcement authorities.

III. Subcommittee Findings

A. A PATTERN AND PRACTICE OF PHYSICAL ABUSE OF JUVENILES EXISTED IN THE TREATMENT AND CARE FACILITIES MAINTAINED BY THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES

In statements presented to the Subcommittee on February 11 and May 26, seven juveniles alleged that they and other juveniles were subjected to a wide range of abuses by the staff at institutions maintained by the Oklahoma Department of Human Services. For example, 16 year-old Mike, a deprived child in the custody of the Department, stated that his arm was broken by a security guard at Whitaker. Others testified that institutionalized juveniles were routinely hog-tied, left for extended period in solitary confinement detention cells, shoved, punched and threatened.

These allegations were supported by hundreds of written abuse reports. The Department of Human Services provided the Subcommittee with approximately 700 abuse reports filed by juveniles at the COJTC, Taft, Boley, Whitaker, the Lloyd E. Rader Center and Helena schools. In a substantial majority of these reports, juveniles alleged that they were subjected to physical abuse by staff at the institutions. In those incidents where staff witnesses confirmed the abuse, the allegation was found to be "substantiated." In cases where the evidence indicated that some confrontation occurred but no staff confirmation existed that excessive force was used, the abuse allegation was found to be "unsubstantiated." In a very few cases, the reports were marked "unfounded" to indicate that no physical contact had occurred.

These written reports combined with the juvenile testimony compel a finding that a pattern and practice of abuse did exist at these juvenile institutions. This conclusion is further bolstered by the fact that Subcommittee interviews with over 30 juveniles uniformly revealed that students did not routinely report abuses. The reasons given for the failure to utilize the Department's advocate defender program included: (1) a lack of awareness that an advocate defender was available to receive and investigate abuse reports; (2) a lack of confidence in the efficacy of the program; (3) a fear of reprisal for reporting abuses; and (4) active staff interference to prevent abuse reporting.

The conclusion that a pattern and practice of physical abuse existed can best be illustrated by reference to the reports themselves. In selecting the cases to be included here, we have emphasized neither the most abusive nor the least serious incidents. Rather we have selected cases that both illustrate the types of abuses reported, regardless of their excessiveness, and that serve as a basis for raising key questions of policy.

1. Use of Mechanical Restraints

The widespread use of mechanical restraints to punish young people is one of the more alarming practices that had been tolerated by Department officials. Students report being shackled or "hog-tied"[1] for a wide variety of behavior including verbal misconduct. Moreover, even deprived children and status offenders who have no history of "criminal" behavior are subjected to restraints as readily as delinquent youth. Although Department policies have officially outlawed hog-tying for years, depositions taken in the *Terry D.* case indicate that hog-tying was, in fact, routinely employed at the juvenile institutions. Consider, for example, the following excerpt from a 1981 deposition, testimony taken under oath from a security officer employed at Boley:

Question. About how many times would you have used restraints at Grant Cottage?

Answer. I don't know, fifteen, twenty times in the last year.

Question. Is there a typical situation in Grant Cottage where restraints would be necessary?

Answer. I don't know.

Question. Is there—Do you respond—Do you frequently have to respond to the same kinds of disturbances in Grant Cottage, that require restraints?

Answer. [Pause.]

Question. Why do you go to Grant Cottage?

Answer. I am called by the Shift Chief that's in charge.

Question. What does the Shift Chief tell you?

Answer. We go down and see what he wants. He says he wants a certain boy put in restraints and we go down and put him in restraints.

Question. Do you need any other authority or approval to use restraints other than Shift Chief?

Answer. Not that I know of.

Question. What do the restraints look like, can you generally describe those?

Answer. We have some Smitten-Wesson handcuffs with leather covers over them for protection, and we have some regular leather shackles with a leather belt.

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[1] The hog-tying of a human being is akin to the restraint placed upon a calf after roping in a rodeo. The ultimate objective is to render the calf prone and unable to move with his legs tied together. In hog-tying a person, the objective is again to leave him prone, hands and feet "roped" together. To accomplish this, the juvenile's wrists are placed in cuffs behind his back. In addition, his ankles are cuffed. Then the juvenile is placed on the floor and his legs are bent back so his ankles meet his wrists. Using a leather restraint one then ties the wrist and ankle cuffs together, wrapping the excess leather "belt" around the wrists and securing it with a knot. At the very best, hog-tying is extremely uncomfortable, and often very painful. Breathing is very difficult in this position and the body quickly stiffens. In addition, the juvenile suffers the humiliation of being tied like an animal.

Question. Have you ever seen or used any plastic restraints at Boley?

Answer. I have seen them, but I have never used them.

Question. Are they available for use at Boley?

Answer. No, I don't think so.

Question. Are they kept in the same place as the other kinds of restraints?

Answer. We have had them. I haven't seen any in the last six or eight months or a year maybe.

Question. Have you ever seen any restraints that are not padded with leather?

Answer. The handcuffs weren't padded, but that's been a year or so ago.

Question. Is there a standard procedure that you use for putting a student in restraints; do you always do it the same way——

Answer. Same way.

Question. And, what is that way?

Answer. We make them lay down on their belly, on their bed, their bunk, handcuff their hands behind them, shackle their feet with the leather shackles and we pull their feet and their hands together and you look that.

Question. Have you ever varied from that procedure?

Answer. No.

David, one of the young witnesses at the May hearings, stated that he had been "shackled or hog-tied at least 45 times" during a three month period at the Whitaker school.[2] In many of these instances, David reported, he was hog-tied simply for "mouthing off" to the houseparents in his cottage. On one occasion, David testified that he was hog-tied and left alone in the time-out room for approximately five hours.

It is evident to this Subcommittee that the only effect using restraints (wrist, ankle, or hog-tying) can have in stopping a verbal assault is a punitive one. The restraints will encourage a person to discontinue his verbal attack only if he views them as a negative sanction, as a punishment for his actions. We suspect that in many cases, the use of restraints does embarrass verbally abusive students into calming themselves. However, in other instances, the use of restraints only incites a student to increase the aggressiveness of his acting out, either by intensifying the verbal attack or by struggling physically with the restraints or those staff members who seek to apply them.

Cases illustrative of the Department's tolerance of the misuse of restraints include the following:

EXAMPLE[3]

On July 30, 1980, at the Helena School, a student was placed in hand restraints for continued yelling and cursing, which, in the opinion of the cottage managers, was causing other juveniles to become unruly. After being placed in hand restraints, the student began kicking the door of his room and was placed in leg restraints as well.

The student subsequently filed a formal complaint that he was "unjustly placed in restraints." Although the Superintendent issued a general statement in his report that: "The use of restraints for the purpose of calming a juvenile (hollering and cursing—causing others to become unruly) does not appear to be preferred practice. Therefore, it is being recommended future use of restraints as mentioned above be discontinued," he found the charges of excessive violence in this particular case to be "unsubstantiated". This incongruous finding, it would seem, arises from the fact that while the use of retraints in this case was perceived to be inappropriate, there had been no prior directive for staff personnel to follow. In accordance with the Superintendent's policy recommendation, the staff members who were involved in this case, Mr. G. and Mr. N., were both cautioned against using restraints in future cases similar to this. No other reprimand was issued.

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[2] No delinquents are housed at Whitaker, only children who are found to be "deprived and neglected" and those adjudicated "INS" (In Need of Supervision) are assigned to Whitaker.

[3] Throughout this report, whenever the Subcommittee believed it would be helpful, a brief synopsis of the abuse report precedes an actual copy of the report. In all cases the last names of all juveniles and the "accused" staff have been deleted.

H-80-94

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 7-29-80 DATE OF REPORT 7-30-80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION Helena
JUVENILES INVOLVED - IS-#
Cecil [redacted]

STAFF AND CLASSIFICATION
Mr. S [redacted] Y.G.S.
Mr G [redacted] Cottage Manager
Mr N [redacted] Cottage Coordinator

TYPE OF REPORT
- ☐ Grievance
- ☐ Policy Violation
- ☒ Abuse ☒ Physical ☐ Verbal
- ☒ Policy Clarification
- ☐ Other

AREA OF ISSUE
- ☐ Hearings
- ☒ Detention
- ☐ Limited Privileges
- ☐ Disciplinary Measures
- ☐ Medical
- ☐ Living Conditions
- ☐ Other

FINDINGS OF ALLEGATIONS
- ☐ Substantiated
- ☒ Not Substantiated
- ☐ Unfounded
- ☒ Other - criteria for use of restraints.

DESCRIPTIVE STATEMENT OF ALLEGATION: Student claims he was placed in restraints for just talking and that the restraints were placed on too tight.

FINDINGS OF ALLEGATIONS: see attached report.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: All subjects involved were interviewed and cautioned on the use of restraints, however student Cotton version failed to include his verbally assaultive language and his gestures toward staff.

SIGNATURE: Jimmy Norwood TITLE: Supt

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A juvenile complained he was unjustly placed in restraints. He charged the restraints were applied too tightly. Initially, the use of restraints on the hands was an attempt to calm the juvenile as his prolonged "hollering and cursing" was causing other juveniles to become unruly. (over)

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

John Leitch

- ☐ Resolved at Inst. Level
- ☐ Unresolved
- ☐ Other
- ☐ Referred to State Office
- ☒ Report Filed-No Additional Information needed

Attached Reports from:

#10

H - 80-94

Additional restraints were used on the legs after he started kicking the door.

In reference to the second complaint, the restraints (on hands) were loosened shortly after the juvenile complained to staff. There was no evidence to indicate the restraints were applied to cause pain or injury.

The use of restraints for the purpose of calming a juvenile (hollering and cursing - causing others to become unruly) does not appear to be a preferred practice. Therefore. it is being recommended future use of restraints as mentioned above be discontinued. DIS-SO was in agreement with the recommendation.

(EXAMPLE 2.—A Youth Guidance Specialist at Helena, after handcuffing a student, picked up the student by the connecting chain between the cuffs causing lacerations on the student's wrists. The Advocate Defender recommended: "the superintendent should take very strong measures that might curb future instances of this sort." The employee received a verbal reprimand.)

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 4/30/80 DATE OF REPORT 5/6/80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION HELENA
JUVENILES INVOLVED - IS-# H 4572 STAFF AND CLASSIFICATION

[redacted], Steve Mr. G [redacted] YGS

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☒ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☐ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	☒ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Alleged that above noted staff member used excessive force by picking up student by connecting chain on hand cuffs thus causing lacerations on students wrists.

FINDINGS OF ALLEGATIONS: Investigation by A.D. confirms the allegation with evidence from staff members confirming allegation.
- SEE ATTACHED MEMO -

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Talked to staff members about use of restraints. A verbal reprimand to staff

SIGNATURE: TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT:
STUDENT DID NOT COMPLAIN - REPORT BY A.D.

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The verbal reprimand received by the employee from the superintendent was sufficient. No further action is being recommended.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level ☐ Referred to State Office

☐ Unresolved ☒ Report Filed-No Additional Information needed

☐ Other

Attached Reports from:

Okla. DISRS Issued 11-1-79 BICSCY-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Human Services

Date: May 6, 1980

From: Robert N. Lamont, Advocate Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator BICSCY
John Leitka, Advocate General

Subject: [redacted] Steve
PHYSICAL ABUSE OF

In Reply - Address to
Attention: ____________________

It has been alleged that on the evening of 4-16-80, the above noted student was the subject of excess force in being placed in handcuffs.

Write-ups included indicate that the student was verbally and physically aggressive towards staff and was apparently considerably out of control to the point that staff felt it necessary to place him in restraints.

Investigation done by the A.D. indicates that once the student was placed in restraints, with his hands behind his back, staff member [redacted] attempted to pick the student up by the small chain between the handcuffs.

It is noted that this student weighs in the neighborhood of 240 lbs. The lifting up by the chain combined with his weight caused the student to have lacerations on both wrists at the point where the cuffs dug into his wrists.

It would appear that in lifting the student by the chain excess force was used in handling this student to the point that there was injury inflicted.

In investigating this incident the A.D. receiving information confirming this from Y.G.S. Terry Gray and Y.G.S. Dave Southerland.

It is the feeling of the A.D. that the superintendent should take very strong measures that might curb future instances of this sort. The matter is referred to the superintendent for his disposition.

RNL:ljs

2. Detention Policies

Another serious abuse which has occurred repeatedly in Oklahoma's juvenile institutions is the placement of students in solitary detention facilities or "lock up" for inordinate lengths of time. The common setting for detention is a windowless room contining only a toilet, wire or cement bed and mattress.

Departmental guidelines limit the number of hours a juvenile may be held in detention without a hearing, and limit, by infraction, the "sentence" that can be given.[1] It is clear, however, that even these minimally protective written policies were frequently disregarded and juveniles were routinely held in detention for up to four days without a hearing.

The real issue here goes beyond Departmental policies and whether they were followed, and requires asking whether placing a juvenile in a barren isolation cell for several days plays any positive or rehabilitative role. In this regard, Dr. Joseph R. Noshpitz, Past President of the American Association for Children's Residential Centers and Secretary of the American Academy of Child Psychiatry, has stated:

"[I]n my opinion extended isolation of a youngster exposes him to conditions equivalent to 'sensory deprivation'. This is a state of affairs which will cause a normal adult to begin experiencing psychotic-like symptoms, and will push a troubled person in the direction of serious emotional illness.

"What is true in this case for adults is of even greater concern with children and adolescents. Youngsters are in general more vulnerable to emotional pressures than mature adults; isolation is a condition of extraordinarily severe psychic stress; the resultant impact on the mental health of the individual exposed to such stress will always be serious, and can occasionally be disastrous."

Dr. Ernest Papanek, a former Professor of Education at City University of New York and a former Executive Director of the Brooklyn Training School for Girls and of the Wihwyck School for Boys similarly opined:

"Isolation as a "treatment" is punitive, destructive, defeats the purposes of any kind of rehabilitation efforts and harkens back to medieval times. There is no justification for such treatment unless one wants to dehumanize a young person in trouble and wants to create more trouble with such a person in the future.

"I decry the isolation method totally as a method to be used in reconstructing young people's personalities. It only destroys what good parts of the personality one could work with and build on." [2]

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[1] The time of the longest possible sentence has varied. However, as one of the reports which follows indicates, in August 1979 sentences for as long as 20 days were imposed.

[2] Dr. Noshpitz and Dr. Papanek testified as experts in *Lollis* v. *New York State Department of Social Services*, 322 F. Supp. 473 (S.D.N.Y. 1970). In that case the issue was whether extended isolation of juveniles (five days in one instance; two days in another) violated the constitutional rights of the juvenile.

(Example 1.—Juvenile was held in detention for 20 days.)

ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

INSTITUTION Helena

August 27, 1979

JUVENILES INVOLVED - IS-#

[redacted] David [redacted]

STAFF INVOLVED-CLASSIFICATIO

Mr. J[redacted]
Mr. [redacted] - YGS
Mr. J[redacted], Soc. Wkr.

NATURE OF COMPLAINT OR REPORT

☐ ABUSE
Physical
Verbal

☒ POLICY
Hearings
Detention
Limited Privileges

Disciplinary Measures
Mecical
Living Conditions

☐ OTHER

BRIEF STATEMENT: Juvenile detained cn 7-25-79 for AWWL, theft of a motor vehicl and destruction of property in excess of $100 while on overnight pass with an inst. employee.

FINDINGS OF ALLEGATIONS ☐ Substantiated ☒ Not Substantiated ☐ Unfounde

COMMENT: AD believed juvenile should not have been charged with AWOL and destruction of property. He felt 20 days in detention was excessive due to the involvement of staff in this incident.

ACTION TAKEN OR RECOMMENDED Recommend the actions of staff named above be investigated to determine their responsibility in this matter. Mr. J[redacted] has come to the attention of the Inspector General in the past. the number of DT days imposed appears to be in the area of "judgement" and is not an issue in this particular instance

ATTACHED REPORTS FROM: Midkiff

JHB:j
cc: Shafer
Midkiff
Norwood

John Leitke Jr.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services

Date: July 30, 1979

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Community
Services for Children and Youth
[redacted]

Subject: Complaint concerning hearing for
David [redacted]

Sp. Attention: ~~John Leitka, Advocate General~~

At a hearing before the Detention Review Board on 7-25-79 David [redacted] was charged with AWOL and theft and destruction of property in excess of $100. In this instance David had been checked out of the institution overnight by one of the employees in the recreation department, Mr. [redacted]. They had gone to a football game that evening with several other employees and a former resident, Bobby [redacted] Following the game David was permitted to go to a disco which did not open until 11:00 p.m. and at which alcoholic beverages were served. David was with Bobby [redacted] and another employee of the department, Mr. [redacted] W [redacted]. At about 1:00 a.m. Mr. [redacted] came to the disco and checked on David but made no attempt to get David to come home with him. Later David and Bobby walked to the home of Mr A [redacted], social worker for LTD cottage, since Bobby was living with Mr A [redacted]. At about 6:00 a.m. Bobby secured the keys to Mr A [redacted] car and indicated that he was going to take David to Mr. [redacted] home. David maintained that he was not aware that Bobby was stealing the car until he was already in the car. Shortly after, the car was wrecked and both boys were arrested.

Since David was not driving the car, it seems to me that he should not have been charged with destruction of property. Also since he was not able to return to the institution later in the day as a result of being held in the Woods Co. jail, it seems that he should not have been charged with unauthorized leave. Given the lack of supervision exhibited during his leave, it seems unfair to have pressed that charge. While there was some indication that they may have been headed for Kansas, no substantial information was presented indicating that this was David's intent. Finally no direct testimony was presented to refute David's claim that he did not know that Bobby was stealing the car until he was in the car and they were pulling away.

All of the above allegations were sustained, and David was given 20 days in detention. I believe he should not have been found guilty on at least 2 of the charges and that the time given was excessive in light of the circumstances. Considerable information was presented in the hearing to indicate that David and Bobby had been permitted to drink alcoholic beverages ranging from beer to mixed drinks by persons who were supposed to have been supervising David's leave. At the time the car was taken, both boys were probably drunk and not completely responsible for their behavior. David indicated that earlier he had not gone up to Mr A [redacted] appartment because he could not negotiate the stairs.

Gary Midkiff

cc: Tommy Norwood, Superintendent
Helena State School for Boys

A.D. File

(EXAMPLE 2.—Student alleged that he was left on the floor in a flooded detention cell.)

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services
Date: May 8, 1979

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Community Services for Children and Youth

Subject: [redacted], James [redacted]
Complaint of Abuse

Sp. Attention: John Leitka, Advocate General

On the morning of 5-2-79 I received word that James [redacted], who was in detention, wanted to see me concerning mistreatment he had received after being placed in detention on Friday afternoon, 5-4-79.

James claimed that Mr. [redacted], social worker, had choked him while in the process of forcing him to the floor so that handcuffs could be placed on him. James also complained that the restraints were placed on him simply because he had flooded his room in detention. Finally he complained that he had been left in the same detention room without a mattress although the room was still flooded. James said that he had to lie on the wet floor since his hands and feet were in restraints and were linked together so that he could not kick.

I checked with Mr. [redacted], manager of Dodge House, who was present at the time; and he indicated that someone, perhaps Mr. [redacted], asked James to lie down on the mattress so that the restraints could be placed on him. James did so without force being necessary. According to Mr. [redacted] the restraints were placed on him not simply because he had flooded his room but also because he had been banging on the door. Mr [redacted] acknowledged that James was left in the room with water still on the floor, but he stated that a mattress was left in the room and that James was on it.

I also checked with Mr. [redacted], the security man who assisted in placing the restraints on James, and he too indicated that James had laid down on the mattress without any need for force and that Mr. [redacted] did not have to take him down. He too stated that James had been banging on the door.

I do not believe that the information which I have received supports James' claim of being choked by Mr. [redacted] while placing restraints on James. Mr. [redacted] in particular has been very trustworthy in his dealings with me in the past. If, however, James was as cooperative as the above actions indicate, I have some question about the necessity for restraints. He could have been moved to a room in which the toilet is controlled from the outside. If he then continued banging on the door, he could have been placed in restraints at that time. The use of restraints was authorized by Mr. [redacted].

I am also concerned that James was left in a room with water standing on the floor. I have communicated this concern to Mr. [redacted] who has indicated that staff in the Dodge House will be instructed that a boy is to be placed in a dry room.

cc: Tommy Norwood, Superintendent
Helena State School for Boys

A.D. File

(EXAMPLE 3)

ADVOCATE GENERAL'S REPORT

TO

BICSCY COORDINATOR

INSTITUTION Helena

November 27, 1979

JUVENILES INVOLVED - IS-#

STAFF INVOLVED-CLASSIFICATIO

[redacted] David -[redacted]

Helena's Detention Facility

NATURE OF COMPLAINT OR REPORT

☐ ABUSE
- Physical
- Verbal

☒ POLICY
- Hearings
- Detention
- Limited Privileges
- Disciplinary Measures
- Medical
- Living Conditions

☐ OTHER

BRIEF STATEMENT: Juveniles alleges that Helena's detention does not meet space requirements, does not allow for human contact, is dirty, and that unreasonable silences are enforced.

FINDINGS OF ALLEGATIONS ☐ Substantiated ☐ Not Substantiated ☐ Unfounde

COMMENT: The size of the rooms cannot be altered; human contacts while in detention are prescribed by policy, and the detention has recently been repainte Section 1734.25 bans unreasonable silences. Superintendent reported students are allowed to converse (see attached memo dated 2-13-80).

ACTION TAKEN OR RECOMMENDED: Since a "reasonable" amount of conversation among juvenile is permitted, no further action is recommended.

ATTACHED REPORTS FROM: G. Midkiff

John [illegible]

:JHB:j
cc: Shafer
Midkiff
Norwood

JHB

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services

Date: October 29, 1979

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Community
Services for Children and Youth

Subject: Complaint of David [redacted]

Sp. Attention: John Leitka, Advocate General

ISSUE INVOLVED
David [redacted] contacted me on 8-23-79 to complain about the conditions in Dodge House, the detention center.

BACKGROUND
David complained about several specific problems in the detention center:
1. David indicated that he was permitted to have little "human contact." As he stated it, "I couldn't have any human contact with other persons other than staff here at Helena." He indicated that he was given "write-ups" if he talked with other residents in detention. It is my understanding that current detention rules do not permit residents to talk with one another, but actual practice is to permit some conversation if there are only a few in detention and they are talking at a reasonable level and not using inappropriate language. The residents of the cottage are only permitted out of their rooms for showers and exercise and have a little contact with staff at that time. Contacts with social workers, the Chaplain, myself and other staff members usually take place within the detention room.
2. David also complained about having to sleep on a mattress which was placed on the floor.
3. He also complained that the detention rooms were too small and that they were not clean. It is my understanding that the rooms do not meet diminsion standards by a slight amount; however, I cannot verify this since I do not know what the requirements are. At the time Dodge House was re-opened, I was informed that approval had been received from S.O., and I assumed that this approval was given with knowledge of the space problem. With regard to the second part of this claim, some of the rooms did have dried organic matter on the walls; but the walls in most of the rooms have now been repainted.

ACTION TAKEN
I brought this complaint to Mr.[redacted] on 9-18-79. He indicated that the boy making the complaint was in detention for kicking a staff member in the back of the head and causing significant physical injury and that he was at the time awaiting certification in Kingfisher Co. (He has subsequently been certified and found guilty.). Mr.[redacted] indicated that detention is for control and that the policies of the detention center are designed with that in mind. He did indicate that there is some concern about the adequacy of the rooms themselves.

Given the nature of the above issues, I am submitting this complaint for resolution beyond the institution.

cc: Tommy Norwood, Superintendent
Helena State School for Boys

A.D. File

EXAMPLES 4 AND 5

In this case, the juvenile was placed in the Special Programs Cottage ("SPC)") for 41 hours and 25 minutes because she "encouraged" another student "to act in a negative manner." No additional information concerning the juvenile's behavior was included.

Assuming, *arguendo*, that sufficient evidence existed to detain the juvenile at all, her 41 hour and 25 minute stay in the SPC violates the Departmental policy as stated in the report by the Advocate Defender: "There appears to be a conflict with policy set forth in State Memorandum 78-74, which states that 'Placement of a juvenile in the Limited Privileges setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components.' " The juvenile here enjoyed none of these basic rights and, as the Advocate Defender points out in his report, she was denied the protections guaranteed her in memo 78-78 which states that "if the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privilege Cottage for a period not to exceed 24 hours, with approval of the Superintendent or his designated Administrator on Duty."

In the second case, a juvenile was ordered to spend two days in detention because she refused to take medication, refused to go to school and subsequently was verbally abusive. The juvenile had calmed herself by 9:40 a.m. the next day and requested that she be released to go to school. The Advocate Defender requested that the superintendent release the student to school, based on her promise to cooperate and the good behavior reports entered into the SPC log.

The Superintendent denied this request on the basis of her past disruptive behaviors. In his report, the Advocate Defender described the Superintendent's action as "questionable" under the circumstances.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Mr. L. E. Rader, Director
Insts., Social and Rehabilitative Services

Date: June 29, 1978

From: Steve Scott, Advocate Defender
Oklahoma Children's Center, South Campus

Attention: Mr. R. Chase Gordon, Coordinator
Bureau of Insts. & Community Servs.
for Children and Youth

Subject: INCORRECT APPLICATION OF INTERIM PROCEDURES FOR SPECIALIZED COTTAGE PROGRAMS AND DETENTION PRACTICES

In Reply - Address to
Attention: ____________________

Special Attention: Mr. John Leitka
Assistant Coordinator

The following is a report of two incidents which resulted in the placement of two students on the Special Programs Cottage for periods which exceeded the twenty four (24) hour Crisis Intervention placement set forth in State Office Memorandum 78-74 and 78-78. They are as follows:

(1) [redacted], Rachelle
[redacted]
DOB: [redacted]
Admitted: [redacted]
ADJ: INS
County: LeFlore

On 6-21-78, Rachelle was placed in the Special Programs Cottage at 3:15 PM by order of the Superintendent. This placement was a result of a Behavior Report written by Mrs. [redacted] C[redacted], Social Worker, which stated that Rachelle was encouraging Vanessa [redacted], to act in a negative manner (See attached Behavior Report). The Behavior Report also states that her placement on the Special Program Cottage would continue until she is placed on Special Leave the following Friday, which was 6-23-78.

On 6-23-78, Rachelle was released from the Special Programs Cottage at 8:40 AM and placed on Special Leave to the home of her mother and this Leave is to terminate on 7-2-78.

Rachelle spent a total of forty-one (41) hours and 25 minutes on the Special Programs Cottage. This appears to be in conflict with policy set forth in State Memorandum 78-74, which states that "Placement of a juvenile in the Limited Privileges setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components" and 78-78 which states "If the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privilege Cottage for a period not to exceed 24 hours, with approval of the Superintendent or his designated Administrator on Duty."

(2) [redacted], Michelle
[redacted]
DOB: [redacted]
Admitted: [redacted]
ADJ: INS
County: Tulsa

On 6-21-78, Michelle received two Behavior Reports, one by Counselor Mrs. [redacted] H[redacted] for refusing to take her medication or go to school, the other by Counselor Mrs. [redacted] G[redacted], also for refusing to take her medication (See attached Behavior Reports). She was placed on the Special Programs Cottage at 8:30 AM that same date by authorization of the Superintendent who also ordered that she stay two days.

On 6-22-78 at 9:40 AM, Michelle requested to speak with the Advocate Defender. In this conference, Michelle stated that she would continue to take her medication, would not cause any more problems, return to school, and was ready to return to her regular cottage. The Advocate Defender then checked the Special Program Cottage log and Michelle's Special Program Cottage student chart, and discovered that she had been taking her medication on schedule and without any resistance and her behavior was described as good. At 9:50 AM, the Advocate Defender contacted the Superintendent, Mr. W[redacted], and relayed this information to him and to discuss the possibility of releasing Michelle from the Special Programs Cottage since she had already spent twenty five (25) hours and (20) minutes. Mr. W[redacted] stated that due to Michelle having been verbally abusive to staff, displayed a negative attitude, acting out in front of other students, and refusing to go to school, he would not consider releasing her from the Special Programs Cottage until 9:00 PM that evening when she could be returned to regular cottage. The Advocate Defender notified Michelle and the Counselor on duty of the Superintendent's decision. Michelle was released at 9:00 PM on that date.

Michelle spent a total of thirty six (36) and one half hours on the Special Programs Cottage before her release back to her regular cottage. Michelle's behavior surrounding her refusal to take her medication or go to school could have been termed "out of control and may have warranted crisis intervention placement. However, her continued placement on the Special Programs Cottage after she had become cooperative and her behavior was termed as good, in the documentation done on that area, and the fact that she was retained on that area for period which exceeded twenty-four hours is questionable. This action appears to be in conflict with State Office Memorandum 78-74 which states "Placement of a juvenile in the limited privileges setting (except for 24 hours crisis intervention on open campuses) requires evaluation, planning, and hearing process components" and 78-78 which states "if the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privileges Cottage for a period not to exceed 24 hours, with approval of the Superintendent or his designated Administrator on Duty."

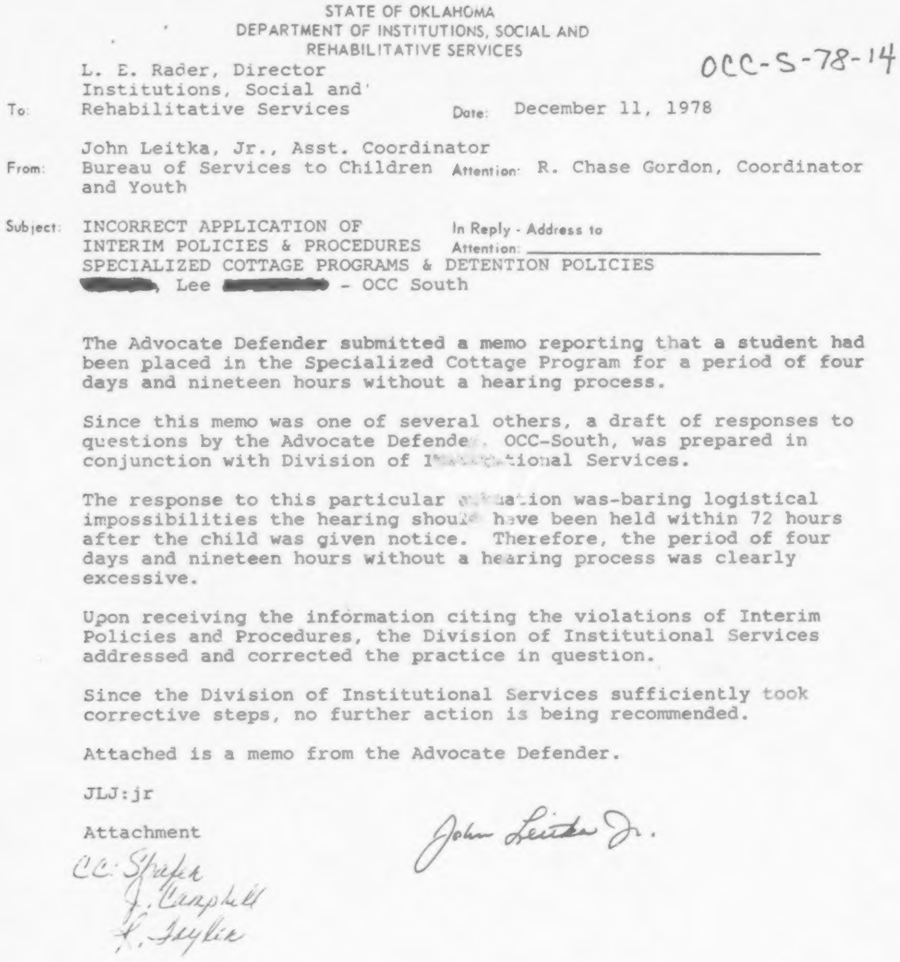
Since these two incidents appear to be in violation of written policy, this report is being submitted to State Office personnel for their consideration. Any direction or suggestions felt to be appropriate would be appreciated.

Steve Scott

Steve Scott, Advocate Defender

SS:bjg
cc: Chuck Caywood
Bob Kelley

(**Example** 6.—**The juvenile described in the following report was held in detention for four days and 19 hours without a hearing. When a hearing was finally conducted, the Detention Review Board determined that the initial allegations against the juvenile were not sustained.**)



STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

OCC-S-78-14

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: December 11, 1978

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: INCORRECT APPLICATION OF
INTERIM POLICIES & PROCEDURES
SPECIALIZED COTTAGE PROGRAMS & DETENTION POLICIES
[redacted], Lee [redacted] - OCC South

In Reply - Address to Attention: ________________

The Advocate Defender submitted a memo reporting that a student had been placed in the Specialized Cottage Program for a period of four days and nineteen hours without a hearing process.

Since this memo was one of several others, a draft of responses to questions by the Advocate Defender, OCC-South, was prepared in conjunction with Division of Institutional Services.

The response to this particular situation was-baring logistical impossibilities the hearing should have been held within 72 hours after the child was given notice. Therefore, the period of four days and nineteen hours without a hearing process was clearly excessive.

Upon receiving the information citing the violations of Interim Policies and Procedures, the Division of Institutional Services addressed and corrected the practice in question.

Since the Division of Institutional Services sufficiently took corrective steps, no further action is being recommended.

Attached is a memo from the Advocate Defender.

JLJ:jr

Attachment

John Leitka Jr.

CC: Shafer
J. Campbell
R. Taylor

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Mr. L. E. Rader, Director
Insts., Social and Rehab. Servs.

Date: July 12, 1978

From: Steve Scott, Advocate Defender
Oklahoma Children's Center, South Campus

Attention: Mr. Chase Gordon, Coordinator
Bureau of Insts. & Community Servs.
for Children and Youth

Subject: INCORRECT APPLICATION OF INTERIM PROCEDURES FOR SPECIALIZED COTTAGE PROGRAMS AND DETENTION PRACTICES

In Reply - Address to
Attention: ______________________________

Special Attention: ✓ Mr. John Leitka
Assistant Coordinator

The following is a report on an incident which involved student Lee C[redacted], [redacted], in which he was placed on the Special Programs Cottage for a period which exceeded twenty-four (24) hours before the proper hearing process took place.

On 7-5-78 at 7:00 PM, he was placed on the Special Programs Cottage (SPC) by order of the Superintendent. This placement was due to Lee physically harrassing another student (see attached Behavior Report).

On 7-7-78, the Cottage Committee gave Lee and the Advocate Defender written notice of a Hearing before the Detention Review Board set for 7-10-78. The Hearing's purpose was to consider the Cottage Committee's recommendation that Lee be placed on SPC due to his deteriorated behavior and as the Cottage Committee's treatment of choice. The Board convened at 2:00 PM on 7-10-78 to hear presentations by both the Cottage Committee and the Advocate Defender. After the presentations were completed, the Board recessed to render its decision. When it reconvened, the Board stated that the allegations against Lee had not been sustained and since he had been placed on SPC for a period of four (4) days and nineteen (19) hours before the proper hearing process took place, Lee had not been afforded "due process".

The violations cited were concerning the written policy set forth in State Office Memorandum 78-74 which states "Placement of a juvenile in the Limited Privileges setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components," and 78-78 which states "If the assessment is made that the juvenile must be temporarily removed from the Cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privilege Cottage for a period not to exceed 24 hours".

Mr. [redacted] W[redacted], Superintendent, has been notified that this report is being submitted to State Office personnel for their consideration and he will receive a copy.

Steve Scott

Steve Scott, Advocate Defender

SS:bjg
cc: Chuck Caywood
Bob Kelley

(EXAMPLE 7.—These cases involve situations in which three juveniles each spent 3 to 4 days in detention awaiting a hearing.)

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

OCC-S-78-13

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: December 12, 1978

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children and Youth

Attention: R. Chase Gordon, Coordinator

Subject: INCORRECT APPLICATIONS OF
INTERIM POLICIES & PROCEDURES
SPECIALIZED COTTAGE PROGRAMS
& DETENTION PRACTICES
OCC-SOUTH CAMPUS
[redacted], Warren - [redacted]
[redacted] Phoebe - [redacted]

In Reply - Address to
Attention: ______________________

The Advocate Defender informed this office that two students had been placed in the Specialized Privilege Cottage without a proper hearing process.

Warren was detained on the Specialized Privilege Cottage for four days without a "hearing" which is clearly in violation of Interim Policies and Procedures.

Phoebe was detained on the Specialized Privilege Cottage for forty-five hours and forty-five minutes. It does not appear a violation occurred since a hearing was conducted within the alloted time allowed in the Interim Policies and Procedures.

Upon receiving the information citing the violation (regarding Warren) the Division of Institutional Services corrected the practice in question.

Since the Division of Institutional Services took corrective steps, no further action is being recommended.

Attached is a memo from the Advocate Defender.

JLJ:jr

John Leitka Jr.

Attachment

CC: Shafer
J. Campbell
[redacted] R. Snyder

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

Date: July 5, 1978

To: Mr. L.E. Rader, Director
Dept. Insts., Social and Rehab. Services

Attention: Mr. Chase Gordon, Coordinator
Bureau Insts. and Community Servs.
for Children and Youth

From: Steve Scott, Advocate Defender
Oklahoma Children's Center South Campus

In Reply - Address to
Attention: Mr. John Leitka, Asst. Coorinator

Subject: Incorrect application of Interim
procedures for Specialized Cottage
Programs and Detention Practices

The following is a report of two incidents which involved two students whose placement on the Special Programs Cottage resulted in them remaining on that area for a period which exceeded twenty-four (24) hours before the proper hearing process took place. This appears to be in violation of the policy set forth in State office memorandum 78-74 and 78-78.

(1) [redacted], Warren
[redacted]
Adj. INS
DOB: [redacted]
Admitted: 12-12-77
Tulsa County

On 6-5-78, Warren was placed on the Special Programs Cottage (SPC) due to a decision of the Detention Review Board. During a regular staffing held by the SPC treatment team on 6-14-78, it was their decision to release Warren from that area on 6-18-78 if no further behavior reports were received by that time and upon return to the open campus he was to continue one-to-one counseling sessions with his social worker, Mrs. P[redacted]. On 6-18-78 at 10:30 am, Warren was released from SPC upon the recommendation of Miss [redacted] O[redacted], social worker on duty, as there had not been any behavior reports submitted on Warren, and on the authority of Mr. [redacted] R[redacted], Deputy Superintendent.

On 6-19-78, at 9:30 am, Warren was returned to SPC by order of the Superintendent due to his suspected involvement in drinking rubbing alcohol on SPC on 6-17-78. This incident was not written up until 6-19-78 (see attached behavior report). The behavior report was written by counselor [redacted] Mr. H[redacted] and was based on a notation made in the SPC log book and Warren's SPC dorm chart which stated that Warren had made the statement that he was doing some of the drinking, but did not like it so he did not drink any more. This notation was made by the 11:00 pm to 7:00 am shift counselor, Mr. [redacted] K[redacted]. Mr. H[redacted] works the 7:00 am to 3:00 pm shift.

On 6-21-78, Warren and the Advocate Defender were given written notice by the Cottage Committee of a hearing before the Detention Review Board to be held at 2:00 pm on 6-23-78 to consider their recommendation that Warren remain on SPC due to his involvement in drinking rubbing alcohol on 6-17-78.

On 6-23-78 the Detention Review Board heard presentations from both the Cottage

Committee and the Advocate Defender and the recessed to make it's decision. Upon reconvening the Board had decided to release Warren from SPC and return him to his regular cottage.

Warren spent a total of four (4) days and four and one half hours on the Special Programs Cottage before the proper hearing process took place.

(2) [redacted], Phoebe
[redacted]
Adj. INS
DOB: [redacted]
Admitted: [redacted]
Custer County

On 6-21-78, the Dorm #2 Cottage Committee met with Phoebe concerning some behavior reports which she had received. She was placed on cubicle restriction with work. Phoebe refused to stay on cubicle restriction and went into the day room and watched T.V. She was placed on SPC that same day at 3:15 pm on the authority of the Superintendent pending her hearing before the Detention Review Board scheduled for 6-23-78 at 1:00 pm. Phoebe and the Advocate Defender had been given notice of this hearing earlier that day.

On 6-23-78 at 1:00 pm, the Detention Review Board convened to have presentations by both the Cottage Committee and the Advocate Defender. It then recessed, and upon reconvening stated that the allegations had been up held and Phoebe was returned to SPC.

Phoebe spent a total of fourty-five (45) hours and 45 minutes on the Special Programs Cottage before the proper hearing process took place.

These two incidents appear to be in conflict with the policy set forth in State Office Memorandum 74-78 which states "placement of a juvenile in the limited privileges setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components." They also appear to be in conflict with Memorandum 78-78 which states, " If the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self-control, the juvenile may be entered into detention or the Limited Privilege's Cottage for a period not to exceed 24 hours."

Superintendent Mr. [redacted] W[redacted], has been notified that this report is being submitted to state office personel for their consideration and he will receive a copy.

Steve Scott
Steve Scott, Advocate Defender

HEW:SS:pgb

CC: Chuck Haywood
Bob Kelley
Harold Wilson

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

OCC-S-78-15

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: December 11, 1978

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: INCORRECT APPLICATION OF INTERIM
POLICIES & PROCEDURES
SPECIALIZED COTTAGE PROGRAMS
AND DETENTION PRACTICES
[redacted], Andrea [redacted]

In Reply - Address to
Attention: ______________________

The Advocate Defender submitted a memo reporting that a student had been placed in the Specialized Cottage Program for a period of three days and forty minutes without a hearing process.

Since this memo was one of several others, a draft of responses to questions by the Advocate Defender-OCC-South, was prepared in conjunction with Division of Institutional Services.

The response to this particular was-baring logistical impossibilities the hearing should have been held within 72 hours after the child was given notice. Therefore, the period of three days and forty minutes without a hearing process was clearly excessive.

Upon receiving the information citing the violations of Interim Policies and Procedures, the Division of Institutional Services addressed and corrected the practice in question.

Since the Division of Institutional Services sufficiently took corrective steps, no further action is being recommended.

Attached is a memo from the Advocate Defender.

JLJ:jr

Attachment

John Leitka Jr.

cc: Grafek
J. Campbell
J. Seylek

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Mr. L. E. Rader, Director
Insts., Social and Rehab. Servs.

Date: July 12, 1978

From: Steve Scott, Advocate Defender
Oklahoma Children's Center, South Campus

Attention: Mr. R. Chase Gordon, Coordinator
Bureau of Insts. & Community Servs.
for Children and Youth

Subject: INCORRECT APPLICATION OF INTERIM PROCEDURES FOR SPECIALIZED COTTAGE PROGRAMS AND DETENTION PRACTICES

In Reply - Address to
Attention: ______________________

Special Attention: Mr. John Leitka
Assistant Coordinator

The following is a report of an incident which involved student Andrea [redacted], [redacted] in which she was placed on the Special Programs Cottage for a period which exceeded twenty-four (24) hours.

On 7-7-78, the Cottage Committee gave Andrea and the Advocate Defender written notice of a hearing before the Detention Review Board set for 7-10-78. The purpose of the hearing was to review theCottage Committee's recommendation that Andrea be placed on the Special Programs Cottage (SPC) for intensive counseling due to her deteriorating behavior and her recent history of harming herself (cutting her hand by breaking a window, on 6-27-78, and removing the bandage and stitches from cut on her hand, on 6-30-78). At 12:50 PM that same date, Andrea was placed on SPC by order of the Superintendent. This placement was due to a recommendation from Andrea's Social Worker, Mrs. [redacted] [redacted], and based on Andrea having become very depressed and threatening to remove the bandage from her cut hand again.

Andrea remained on SPC until her Hearing which was held on 7-10-78 at 1:30 PM. When the Board convened, it heard presentations from both the Cottage Committee and the Advocate Defender. After the presentations were completed, the Board recessed to make its decision. Upon reconvening, the Board sustained all allegations and returned Andrea to SPC.

Andrea had spent a total of three (3) days and (40) minutes on SPC before the proper hearing process took place. This appears to be in violation of written policy set forth in State Office Memorandum 78-74 which states "Placement of a juvenile in the Limited Privileges setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components," and 78-78 which states "If the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privilege Cottage for a period not to exceed 24 hours".

Mr. [redacted] [redacted], Superintendent, has been notified that this report is being submitted to State Office personnel for their consideration and he will receive a copy.

Steve Scott
Steve Scott, Advocate Defender

SS:bjg
cc: Chuck Caywood
Bob Kelley

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Mr. L. E. Rader, Director
Insts., Social and Rehab. Servs.

Date: July 13, 1978

From: Steve Scott, Advocate Defender
Oklahoma Children's Center, South Campus

Attention: Mr. R. Chase Gordon, Coordinator
Bureau of Insts. & Community Servs.
for Children and Youth

Subject: INCORRECT APPLICATION OF INTERIM PROCEDURES FOR SPECIALIZED COTTAGE PROGRAMS AND DETENTION PRACTICES

In Reply - Address to
Attention:

Special Attention: Mr. John Leitka
Assistant Coordinator

The following is a report of an incident which involved student Arthur [redacted], in which he was placed on the Special Programs Cottage for a period which exceeded twenty-four (24) hours and without the proper Hearing process.

On 7-6-78 at 4:45 PM, Arthur was placed on the Special Programs Cottage (SPC) by order of the Superintendent due to continual reports that Arthur had been bullying, threatening and striking other students. (See attached Behavior Report). He was released from SPC on 7-10-78 at 5:30 PM, having served a total of four (4) days and 45 minutes on that area. This action appears to be in conflict with the policy setforth in State Office Memorandum 78-74 which states "Placement of a juvenile in the Limited Privileges Setting (except for 24 hour crisis intervention on open campuses) requires evaluation, planning, and hearing process components," and 78-78 which states "If the assessment is made that the juvenile must be temporarily removed from the cottage setting in order to regain self control, the juvenile may be entered into detention or the Limited Privilege Cottage for a period not to exceed 24 hours".

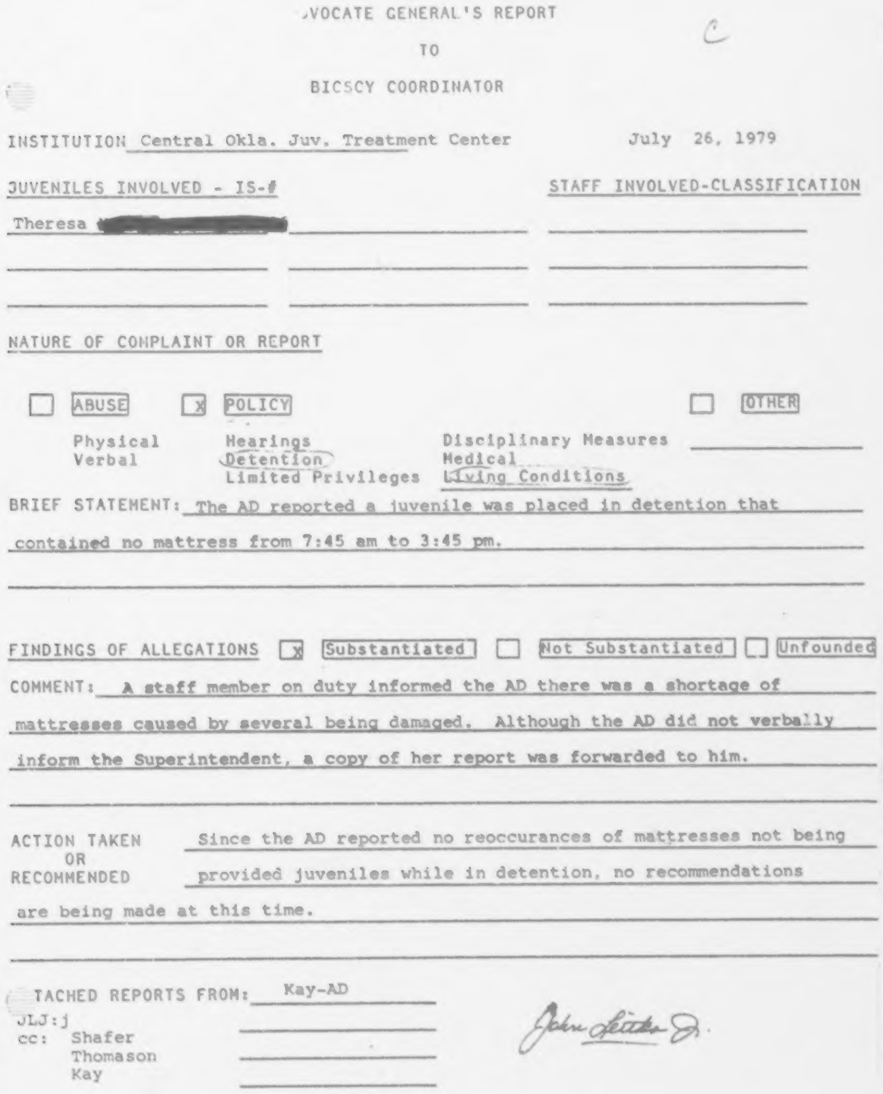
On 7-11-78 at 6:30 AM, Arthur was released from the institution and placed on Change of Placement through Interstate Compact to his aunt's home in California.

Due to the action taken in this incident, which appears to be in conflict with written policy, it was felt that this report should be submitted to State Office personnel. Mr. [redacted] W[redacted], Superintendent, is aware that this report is being submitted and he will receive a copy.

Steve Scott, Advocate Defender

SS:bjg
cc: Chuck Caywood
Bob Kelley

(EXAMPLE 8.—In this case a student was placed in a detention cell without a mattress for 8 hours, between 7:45 a.m. and 3:45 p.m.)



VOCATE GENERAL'S REPORT

TO

BICSCY COORDINATOR

C

INSTITUTION Central Okla. Juv. Treatment Center   July 26, 1979

JUVENILES INVOLVED - IS-#   STAFF INVOLVED-CLASSIFICATION

Theresa [redacted]

NATURE OF COMPLAINT OR REPORT

☐ ABUSE   ☒ POLICY   ☐ OTHER

ABUSE	POLICY		OTHER
Physical	Hearings	Disciplinary Measures	
Verbal	[✓ Detention]	Medical	
	Limited Privileges	[✓ Living Conditions]	

BRIEF STATEMENT: The AD reported a juvenile was placed in detention that contained no mattress from 7:45 am to 3:45 pm.

FINDINGS OF ALLEGATIONS ☒ Substantiated ☐ Not Substantiated ☐ Unfounded

COMMENT: A staff member on duty informed the AD there was a shortage of mattresses caused by several being damaged. Although the AD did not verbally inform the Superintendent, a copy of her report was forwarded to him.

ACTION TAKEN OR RECOMMENDED: Since the AD reported no reoccurances of mattresses not being provided juveniles while in detention, no recommendations are being made at this time.

TACHED REPORTS FROM: Kay-AD

JLJ:j
cc: Shafer
Thomason
Kay

John [illegible] Jr.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: May 25, 1979

From: Sue Kay, Advocate Defender
Girls' Town

Attention: Chase Gordon, Coordinator, Bureau of Institutions and Community Services
Spec. Attn.: John Leitka, Advocate General

Subject: [redacted], Theresa [redacted]
[redacted]
Oklahoma County

In Reply - Address to
Attention: ______________________

Theresa [redacted] was placed in detention at Girls' Town on May 23, 1979, at 7:45 a.m. Theresa was later released by her cottage committee at 3:45 p.m. on May 23, 1979.

Theresa was placed in a detention cell that contained no mattress. She was not provided with a mattress at any time during her eight hour stay in detention. Theresa was provided other bedding including a pillow. The reason given by the houseparent on duty for Theresa's not having a mattress was that the detention facility did not have enough mattresses. The detention facility on the girls' side contained five girls at that time.

I checked other detention cubicles which were empty at that time and found that they did not contain mattresses. I have heard detention staff talking about the shortage of mattresses due to a male student's having torn up several mattresses while he was in detention at Girls' Town. I found no evidence that Theresa was being denied a mattress when one was available.

I did not inform the superintendent that Theresa was without a mattress.

This memo is being submitted for the purpose of informing the Advocate General that a student at Girls' Town was placed in detention for eight hours during which time she had no mattress. The reason given for the student's not being provided with a mattress was that not enough mattresses were available. I found no evidence to indicate otherwise.

Sue Kay
Sue Kay, Advocate Defender
Girls' Town

SK:bac

cc: Chase Gordon, Coordinator, Bureau of Institutions and Community Services
Superintendent, Girls' Town
Social Service, Girls' Town

7/26/79 AD Reported no re-occurrences
of [illegible] mattresses not being provided
juveniles while in detention.
JL

(EXAMPLE 9.—A juvenile was placed in detention for over 19 hours without a bed or working toilet.)

ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

INSTITUTION Central Oklahoma Juvenile Treatment Center August 28, 1979

JUVENILES INVOLVED - IS-# STAFF INVOLVED-CLASSIFICATION

Jalene [redacted]

NATURE OF COMPLAINT OR REPORT

☐ ABUSE ☒ POLICY ☐ OTHER

Physical
Verbal

Hearings
Detention
Limited Privileges

Disciplinary Measures
Medical
Living Conditions

BRIEF STATEMENT: AD reported a juvenile was placed in detention that contained no bed or a stool which was not functioning properly.

FINDINGS OF ALLEGATIONS ☒ Substantiated ☐ Not Substantiated ☐ Unfounde

COMMENT: The stool was repaired while juvenile was still in detention. Although the room contained no bed, a mattress and adequate "bedding" was provided. A few days after the juvenile was released from detention a bed was installed in the detention room.

ACTION TAKEN OR RECOMMENDED None since corrective measure were taken by the Superintendent.

ATTACHED REPORTS FROM: Kay-AD

LJ:j
cc: Shafer
Thomason
Thornton'

Informed Chase
on 8/27/79

John Leitch Jr.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: July 31, 1979

From: Sue Kay, Advocate Defender
Central Oklahoma Juvenile
Treatment Center

Attention: Chase Gordon, Coordinator-BIC
Spec. Attn.: John Leitka, Advocate General

Subject: POSSIBLE DETENTION POLICY VIOLATION

In Reply - Address to
Attention: ______

[redacted] Jalene
Oklahoma County

It appears that a detention policy violation occurred in that a student at Central Oklahoma Juvenile Treatment Center was in a detention cubicle without a working stool for approximately 19 hours (at which time the stool was fixed) and without a bed for 19 hours and 35 minutes (the total length of her stay in detention). The problems have been alleviated as of the writing of this memo in that the stool has been fixed and the bed has been installed. Details surrounding this incident are related in the following paragraph.

Jalene [redacted], a student at COJTC, was admitted to detention on July 25, 1979 at 6:25 p.m. Jalene was placed in a detention cubicle (#2) which had no bed and a non-working stool. Jalene was provided with a mattress and other bedding which were placed on the floor. Jalene was kept in this detention cell until July 26, 1979, at 2:00 p.m., at which time she was released by the Superintendent, Dr. [redacted] T[redacted]. Dr. T[redacted] had been made aware that Jalene was in the cubicle without a bed and a working stool on July 26th at around 10:00 a.m. Dr. T[redacted] at that time made a work order for Maintenance to repair the commode and install the bed. The commode was repaired at approximately 1:00 p.m. on July 26th. The bed, however, was not installed until July 31, 1979.

This report is being made for the Advocate General's information. To my knowledge there are no detention cubicles which have non-functioning stools or insufficient beds (except for the padded cells).

Sue Kay
Sue Kay, Advocate Defender

SK:aw
cc: Chase Gordon, S.O., BICS
Superintendent, COJTC
Social Service, COJTC
Sue Kay

Detention practices were also described in the written statements submitted to the Subcommittee by former students and in the live testimony of the juvenile witnesses.

Cynthia reported being placed in detention for seven days in a small cold room with only one blanket, a thin mattress on a cement bed and a toilet without a seat. Karen reported spending numerous days in a similar cell. David testified that when he was 13 he was placed in solitary confinement for 48 hours at the Whitaker School. Stacy reported being held in detention for 5 days at Whitaker as punishment for going AWOL. Khristinna testified that she spent 72 hours in a cold detention room without a mattress, pillow or blanket.

3. Physical Abuse

The abuse reports submitted to the Subcommittee described incidents that occurred at the six juvenile institutions maintained by the Department through early 1982.

Many of the most serious reports came from the two schools for delinquent boys—the Boley and Helena schools. However, a pattern and practice of particularly harsh treatment also existed at the Whitaker Children's Center. Half of the students at Whitaker are "deprived and neglected" children whose parents have failed to provide them with minimal care at home. The other half are not delinquent but have been adjudicated "In Need of Supervision" (INS).

The types of physical abuses found at the schools varied. A review of the files, however, leads to the conclusion that, for many, staff physical confrontation and force was the norm. Ironically, children institutionalized because they were abused at home, faced a system that, likewise, subjected them to physical harm and help to instill in them a reliance on physical force.

The abuse reports that follow are intended to provide a sample of the types of abuse allegations contained in the hundreds of reports reviewed by the Subcommittee.

CONFIDENTIAL

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

C

To: L. F. Rader
Director of Human Services

Date: February 19, 1982

From: Charles Garrett
Inspector General

Attention: George Miller
Secretary to Director
Coordinator Services to Children

Subject: ALLEGED ABUSE OF STUDENTS BY SUPERINTENDENT - HELENA STATE SCHOOL

In Reply—Address to
Attention: ____________________

(4 Feb 82)

Please refer to your verbal request on February 18, 1982, to check an alleged abuse incident at Helena State School where two students were strip-searched in cold weather and made to walk around in undershorts and socks.

While at Helena State School on February 18, 1982, Investigators Pennala and Saxton inquired of Mr. [redacted] H[redacted], Deputy Superintendent, of any recent incident where two students were caught while AWOL, forced to strip and walk around in their undershorts and socks. Mr. H[redacted] stated he could recall only one incident of such a nature and this concerned two juveniles named Stanley [redacted] and Thomas [redacted], [redacted] Investigators obtained all of the reports available concerning this incident, including the report of the Student Advocate Defender, all of which are attached. These reports indicated that this incident occurred on November 1, 1981, at approximately 3:00 a.m. The findings of the Advocate Defender indicates that Mr. J[redacted] did have Stanley [redacted] remove his clothes, which he had stolen in the gym. Both students were then walked in a cold rain to find the keys for the cottage, which they had previously stolen and were then walked to CMC, all in their shorts and socks. All persons were wet from the rain when arriving at CMC. Statements and reports are attached. Mr. H[redacted] stated that the incident involving the runaway of Steve [redacted] and Patrick [redacted] may be relevant but he did not believe it would, as it involved a strip search in the field only for a short time as a precaution to search for weapons.

Upon returning to the State Office on February 19, 1982, Investigator talked with Mr. [redacted] C[redacted] who provided a copy of the Advocate General's report on the incident involving Steve [redacted] and Patrick [redacted] A cover memo on this report indicates that Mr. C[redacted] recommended a hearing for Mr. J[redacted] before the Disciplinary Review Committee, which was approved on February 15, 1982. A check of the weather at 8:30 p.m. on January 5, 1982 showed the temperature at Enid, Oklahoma as 43° Fahrenheit, no snow, with 8 MPH winds and a Dew Point of 18. The Advocate General's report is attached.

This is for your information.

Charles Garrett
Charles Garrett
Inspector General

CG:TS:km
cc LER File
OIG File
(Attachments with original
and file only)

CONFIDENTIAL
Pursuant to State Law & Policy

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: February 15, 1982

From: Jack Campbell, Ass't Supervisor
Institutional Services

Attention: Wesley Rucker, Supervisor
Division of Institutions and
Community Services for Children

Subject: Alleged Abuse of
Steve [redacted]
Patrick [redacted]

In Reply—Address to
Attention: ______________________

Based on statements presented by the institutional staff and an investigation conducted by the Advocate General, it appears that extremely poor judgement was used by the Superintendent in his handling of this situation

This is the second recent incident where the Superintendent has used very poor judgement in handling students. The last incident resulted in a verbal reprimand from the Supervisor of Division of Institutions and Community Services for Children.

As a result of this reprimand and the current allegations which are not denied by the Superintendent, it is recommended a referral to the Disciplinary Review Committee be made.

J Campbell
Jack Campbell, Assistant Supervisor
Institutional Services

JC:cb

TJB

cc: Wesley Rucker
Ted Baumberger
Tom Tucker
John Leitka
George Miller
Raye Keene
Vera Alder
File (Jack Campbell)

APPROVED
FEB 15 1982
DIRECTOR OF HUMAN SERVICES

CONFIDENTIAL
Pursuant to State Law & Policy

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 1-5-82
DATE ISSUE RESOLVED ______

DATE OF REPORT 2-8-82

ADVOCATE DEFENDER'S REPORT

INSTITUTION Helena
JUVENILES INVOLVED - IS-#
[redacted], Steve [redacted]
[redacted], Patrick [redacted]

STAFF AND CLASSIFICATION
[redacted] Superintendent

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☐ Living Conditions
☒ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Two students reported being stripped to undershorts/T-shirts and made to walk without shoes (in the cold) after being caught in an AWOL attempt.

FINDINGS OF ALLEGATIONS: ______

ACTION TAKEN AT INSTITUTION: ______

INSTITUTION'S RESPONSE: The superintendent felt the strip search and questioning was necessary due to one student's [redacted] history of AWOLs (14) 3 arsons and theft of institutional property.

SIGNATURE: ______ TITLE: ______

JUVENILE'S RESPONSE & COMMENT: ______

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The Superintendent required two students to strip down to undershorts/T-shirts and walked them without shoes while questioning them about missing knives from the Kitchen. The knives were recovered from information obtained during the AWOL apprehension.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

Okla. DISRS Issued 11-1-79

CONFIDENTIAL
Pursuant to State Law & Polic

Advocate General's Inquiry Regarding Complaints by Two Students:

The Advocate General interviewed the Superintendent and two students following a report by the Student Defender that a questionable incident had occurred. The two students filed a "grievance" complaining of being required to strip down to their undershorts/T-shirts and walk without shoes after being apprehended during an AWOL attempt. Both bous reportedly were questioned by the Superintendent while being walked. They claimed to have been "walked" between 100 yards to ½ mile and were kept out in the cold for approximately 30 minutes.

The Superintendent acknowledged the students were stripped to their undershorts and T-shirts and searched for weapons and contraband. The shoes were taken to discourage further attempts at AWOL. The Superintendent reports separating the students walking them for approximately 20 yards while obtaining information about missing knives from the kitchen, and also some missing matches. The purpose for separating the students was to avoid and protect them from being labeled "a snitch"-The Superintendent described one student (Pat [redacted]) as a "master at stealing", student has been involved in 14 AWOLS, responsible for setting four fires at the institution and is suspected of taking knives from the kitchen. According to the Superintendent, one student gave the location of the knives and they were recovered.

CONFIDENTIAL
Pursuant to State Law

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L.E. Rader, Director
Department of Human Services

Date: January 14, 1982

From: Homer Rogers, Student Defender
Helena State School for Boys

Attention: John Leitka, Advocate General

Subject: [redacted], Steve
[redacted]

[redacted] Patrick
[redacted]

In Reply—Address to
Attention: ______________________

I am writing in regard to the above-named student's allegations that [redacted], Superintendent, had them stripped to their undershorts and tee shirts and made them walk around in the cold on 1-5-82 after they were caught following their AWOL. As you know you talked to both of these students and [redacted] THE SUPERINTENDENT on 1-8-82. Attached are copies of statements made by [redacted] STEVE [redacted] and [redacted] PATRICK

STEVE [redacted] and PATRICK [redacted] went AWOL from Helena State School for Boys on 1-5-82 at approximately 8:00 pm. They were located west of the school in a field and were asked to get in a vehicle and take their clothes off so they could be searched. When THE SUPERINTENDENT [redacted] arrived he asked them to get out of the vehicle as he wanted to talk with them and search them. STEVE [redacted] and [redacted] PATRICK [redacted] stated they were kept out approximately thirty minutes with only undershorts and tee shirts on. THE SUPERINTENDENT [redacted] says he did walk them around and talked with them as he wanted to determine if they had taken any knives from the kitchen or tools from the warehouse.

This is submitted for your information and consideration. If I can be of further assistance, please feel free to contact me.

HR:mkg

Homer Rogers

cc: file

CONFIDENTIAL
Pursuant to State L[illegible]

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 2-17-81
DATE ISSUE RESOLVED ______

DATE OF REPORT 3-2-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION BSSB

JUVENILES INVOLVED - IS-#
Robert [redacted] [redacted]

STAFF AND CLASSIFICATION
Mr. [redacted] M[redacted] [redacted]

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☒ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: See Attached

FINDINGS OF ALLEGATIONS: See Attached

ACTION TAKEN AT INSTITUTION: See Attached

INSTITUTION'S RESPONSE: See Attached

SIGNATURE: Robert B TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT: Robert feels that both he and Mr. M[redacted] should take a polygraph test.

☐ Resolved
☐ Not Resolved
☒ Other

Robert [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: ______

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☐ Report Filed-No Additional Information needed

E-96

Attached Reports from: 8-81-4

Okla. DISRS Issued 11-1-79

BICSCY-1

DESCRIPTIVE STATEMENT OF ALLEGATION

Robert [redacted] alleged that at approximately 7:15 P.M. on February 13, 1981, he was abused by Mr. M[redacted], YGS. **It is Robert's contention that Mr. M[redacted] slapped him once in the face, hit him with his fist in the nose and also held him down over the dryer on the cottage.** Robert's full account of the incident is as follows. I was up by the dryer putting my clothes in it and Richard [redacted] came over and took them out twice and I told him to quit both times and he would not, so we got into a fight as there was another dryer that he could have used. Mr. Lohner came and stepped between us and broke up the fight. I stepped back about three feet and then calmed down, I'm not sure if I had my fist doubled up at this time or not. Then Mr. M[redacted] came from nowhere and pushed me back and I said what's your problem and at that time he slapped me and hit me. Mr. M[redacted] slapped me once in the face and then hit me flat in the nose with his fist. I don't remember if he hit me both times with the same hand or not. I slid down by the table by the dryer and he grabbed me and held me down over the dryer. I don't know if he was doing it on purpose or not but he kept hitting my head on the dryer. I never made any attempt to hit Mr. M[redacted] or provoke him.

FINDINGS OF ALLEGATIONS

Richard [redacted] gave the following account of the incident. Robert [redacted] and I were fighting and Mr. M[redacted] told Robert to stop and then grabbed him by his shirt and Robert said what's your problem. Mr. M[redacted] said I don't have one so Robert tried to get M[redacted] hands off him and then Mr. M[redacted] slapped him with his left hand and then hit him with his right fist in the nose. Robert's nose started bleeding, and M[redacted] grabbed him and started banging his head on the washing machine.

~~Richard stated that Mr. M[redacted] got involved in the incident when Robert tried to kick him and hit Mr. Lohner in the arm. After Robert had accidentally hit Mr. Lohner, Robert backed up and quit fighting. Richard [redacted] also stated that he felt what Mr. M[redacted] did was not nec[illegible]y in this situation.~~

Kevin [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] were fighting in front of the bathroom and Mr. Lohner came and seperated them and Robert kicked Mr. Lohner accidentally as he was trying to kick Richard [redacted]. Robert then backed up but still had his fist balled up and Mr. M[redacted] came over and grabbed Robert by the shoulders and pushed him up against the clothes dryer. Robert was trying to get away from Mr. M[redacted] and his arm kind of hit Mr. M[redacted] but not intentionally. Robert was just trying to get Mr. M[redacted] off of him. Then Mr. M[redacted] slapped Robert with his right hand and then hit him with his left fist in the nose and shoved his head against the dryer. Robert said you better let go to Mr. M[redacted] and then I tried to get Mr. M[redacted] off Robert as I was mad over what Mr. M[redacted] had done as I felt it wasn't necessary for Mr. M[redacted] to grab Robert [redacted] as he was pretty much in control. Robert didn't cuss him or threaten him. I think the reason Mr. M[redacted] hit him was because Robert kicked at Richard [redacted] and hit Mr. Lohner by accident. I feel it was unnecessary for Mr. M[redacted] to do what he did.

Jon [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] were fighting and no one was breaking it up and then Kip [redacted] grabbed hold of Robert [redacted] and Richard [redacted] tried to get Robert again and Kip let go of Robert. Then Mr. M[redacted] came over and grabbed Robert and pushed him up against the washer. Then Mr. M[redacted] slapped Robert in the nose. It appeared to me that he hit him with his fist just once. Mr. M[redacted] said that Robert swung at him but he didn't. Richard [redacted] was the cause of the whole thing because he's always getting into fights and he had gotten into five or six in the last two or three days. Jon stated that he didn't think Mr. M[redacted] was right in what he did.

Anthony [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] started fighting and Mr. Lohner came and broke it up, then M[redacted] came and said we're not going to have this using vulgar language and such and grabbed Robert and hit him with his fist in the face then bent his head back on the machine in the cottage. Anthony stated that the only thing Robert [redacted] said was get your hands off of me, that he didn't do anything to provoke Mr. M[redacted]. Anthony felt that Robert was under control as he had backed up and quit trying to fight when Mr. M[redacted] grabbed him.

Donnie [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] got into a fight and Mr. Lohner came over to break it up and got between them. Robert kicked at Richard and hit Mr. Lohner in the arm. Mr. Lohner told them to walk away from each other and Robert did. Then they started to argue again and Mr. M[redacted] came over and grabbed Robert after he had already quit and settled down. Then Robert tried to push Mr. M[redacted] hand back and that's when Mr. M[redacted] hit him in the nose then M[redacted] had Robert up against the washing machine pushing him into it. I only saw Mr. M[redacted] hit Robert once and I couldn't tell if he had his fist balled up or not. Donnie stated that Robert's nose wasn't bleeding after Robert and Richard had stopped fighting that it started bleeding after Mr. M[redacted] had hit him. Donnie felt that Mr. M[redacted] was wrong because the fight had already stopped when [redacted] jumped in and grabbed Robert. Donnie stated that Mr. Lohner saw the same thing that he had but didn't tell it like he did.

Arlin [redacted] gave the following account of the incident. Arlin stated that Robert [redacted] and Richard [redacted] were fighting but by the time he got a good look at it, Mr. Lohner was between them, then Robert kicked at Richard [redacted] and accidentally hit Mr. Lohner in the hand. Right after that they quit fighting. Robert [redacted] backed up and he felt that the fight was over so he went to his cubicle and didn't see what happened between Robert [redacted] and Mr. M[redacted]

Ricky [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] got in a fight and then Mr. M[redacted] grabbed ahold of Robert [redacted] and told him to break it up and Robert moved Mr. M[redacted] hand trying to get to Richard [redacted] then Mr. M[redacted] kind of slapped Robert in the nose and it started bleeding. Ricky stated that Mr. M[redacted] just hit Robert once. Ricky stated that it wasn't an accident when Mr. M[redacted] hit Robert but that it was a deliberate slap. Ricky stated that he didn't think Mr. M[redacted] had to hit Robert the way he did.

Kip [redacted] gave the following account of the incident. Robert [redacted] and Richard [redacted] got into a fight and Mr. Lohner came over and grabbed Richard [redacted] and I grabbed Robert [redacted] and people in the cottage started saying let him go so I did. They kept fighting and Mr. M[redacted] came over and pushed Robert and then hit him twice. He slapped him first and then punched him in the nose. Kip stated when Mr. M[redacted] hit Robert [redacted], Robert had quit trying to get to Richard [redacted] and he wasn't trying to fight anymore.

Mr. M[redacted] gave the following account of the incident. Mr. Lohner and I were sitting at the desk when the fight broke out at the entrance of the bathroom between Richard [redacted] and Robert [redacted]. Mr. Lohner saw it first and he got up and I knew something was going on and I got up. Mr. Lohner grabbed ahold of Richard [redacted] and was holding him away and I was behind Mr. Lohner. Robert [redacted] kept trying to kick Richard [redacted] and I told Robert [redacted] to quit, he didn't so I stepped between Robert [redacted] and Mr. Lohner. I was trying to get Robert's attention and Robert said to me that he'd do such and such thing, I don't remember for sure what it was. I told him again to take it easy and Robert [redacted] started swinging and coming at me. I threw my arm up and then tried to gram him and my left elbow hit him in the mouth. I grabbed him and wrestled him over the dryer and held him till he cooled down. And then about that time he said I had hit him in the face. I wasn't trying to hurt him just trying to get Robert [redacted] under control. I had to do something because just talking to him wasn't doing any good. Robert never got under control until Jess [redacted] came in the cottage. Richard [redacted] was pretty much under control at this time. I never slapped or punched him or tried to beat his head against the dryer. I can't say if his nose was bleeding before I had to wrestle him down. I was unaware that I had hit him with my elbow until some student said that I hit him. I don't know who the student was.

Mr. Lohner gave the following account of the incident. Mr. M[redacted] and I were both sitting at the desk and Richard [redacted] and Robert [redacted] started fighting over by the dryers. I jumped up and by the time I got there they had fought around to the shower door. I got between them and told them to quit. Robert [redacted] kept trying to get around me trying to kick and hit Richard [redacted]. At this point Richard [redacted] had quit and never tried to fight again. I then turned around to Robert and told him not to hit me and he kept swinging and kicking. He kicked at Richard and I blocked it with my arm. Mr. M[redacted] was behind me and got excited as he thought Robert had kicked me intentionally. Then Mr. M[redacted] jumped between us and knocked Robert [redacted]s arm away. Mr. M[redacted] asked Robert to quit and Robert started cursing him and swung his arm at Mr. M[redacted] calling him names. At about this time M[redacted] lunged and grabbed Robert [redacted]. I saw M[redacted] hand hit Robert in the mouth when he grabbed him. I don't think he made a deliberate attempt to hit him. I think Robert had already been hit in the nose before I got there because Richard hit him with a right and staggered Robert and his face was real red and puffed up like he had been hit in the nose when I first got to Robert.

ACTION TAKEN AT INSTITUTION & INSTITUTION'S RESPONSE

This report is in regard to Robert W[redacted] allegation that approximately 7:15 p.m. on February 13, 1981, he was abused by Mr. [redacted] M[redacted], YGS. It was Robert's contention that Mr. M[redacted] slapped him once in the face, hit him with his fist in the nose and also held him down over the dryer in the cottage.

After reviewing all evidence presented by the students and evidence presented by Mr. Lohner, YGS, there are contradictions in the presenting evidence by students and staff. During the administration's interview with Mr. M[redacted], it was his contentions that"the students were out to get him". Mr. M[redacted] went on to indicate that his left elbow hit Robert [redacted] in the mouth. He also indicated that he wrestled Robert over to the dryer and held him until he cooled down. Mr. M[redacted] said that he never slapped or punched Robert or [illegible] to beat his head against the dryer.

During the Student Defender's investigation of this allegation, he interviewed eight (8) students and seven (7) of the students testified that Mr. M[redacted] first slapped Robert and then hit him in the nose.

Due to the contradictions and the evidence presented by students and staff, the administration recommends that Mr. [redacted] M[redacted] take a polygraph test. The administration has talked with Mr M[redacted] concerning this recommendation and he has consented to do so. We would appreciate this testing being set up as soon as possible.

We will with hold any final recommendation in this situation until the results of the polygraph test have been given.

Robert [illegible]

SCHEDULED BY________
☐ OUTPATIENT
☐ STRETCHER
☐ W/CHAIR
☐ PORTABLE
☐ IR

WHEN DESIRED
☐ ROUTINE
☐ STAT.

TECH. ______ X-RAY NO. 6311-81

EST PA & LAT		HIP		T-TUBE CHOLANGIOGRAM								
WORK CHEST		HIP PINNING		OPERAT CHOLA TAM								
BS UNILATERAL		FEMUR		I.V. CHOLANGIOGRAM								
BS BILATERAL		KNEE		UPPER GI								
ERNUM		TIBIA & FIBULA		UPPER GI W/ SMALL BOWEL								
DOMEN AT PLATE		ANKLE		ESOPHAGUS	QTY	STUDY	QTY	STUDY	QTY	STUDY	QTY	STUDY
DOMEN FLAT & ERECT		FOOT		COLON		CERVICAL SPINE		CHEST TOMOGRAMS		CERVICAL MYELOGRAM		EMPLOYEE CHEST
DOMEN AT DECUB		OSCALCIS		COLON W/AIR		THORACIC SPINE		IVP TOMOGRAMS		THORACIC MYELOGRAM		X-RAY COPIES
OULDER		TOES		IVP INJECTION		LUMBAR SPINE		IV-CHOLANGIOGRAM TOMOGRAMS		LUMBAR MYELOGRAM		COMPARISON VIEW
OULDER & WEIGHT		SKULL		IVP HYPERTENSIVE		COCCYX		______ TOMOGRAMS				POST REDUCTION FILM
AVICAL		SINUSES		IVP DRIP		SACRUM		______ TOMOGRAMS		BILATERAL VENOGRAM		
APULA		MANDIBLE		CYSTOGRAM		SOFT TISSUE CERVICAL SPINE				UNILATERAL VENOGRAM		
US		T.M. JOINTS				PELVIMETRY		ULTRASOUND				
		MASTOIDS				HYSTEROSALPINGOGRAM				MAMMOGRAM ___		
OREARM	X	NASAL BONES										
RIST		FACIAL BONES								PACEMAKER TEMP		
AND		BONE-AGE								PACEMAKER PERM		
NGERS		BONE SURVEY										

RADIOLOGIST FEE	HOSPITAL CHARGE	TOTAL
13—	39	53—

DESIRED

INAL DIAGNOSIS

-113-

[redacted], ROBERT

ORY

NASAL BONES: There appears to be a non-displaced fracture of the midportion of the nasal bones, this is very difficult to see. There is certainly no displacement.

RADIOLOGIST

X-RAY COPY D.G. PENNINGTON, M.D.
2-17-81/dl

X-RAY REPOR

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

File
221

To: Robert Buckner, Superintendent
Boley State School for Boys

Date: May 13, 1981

From: L.E. Rader, Director
Department of Human Services

Attention:

Subject: [redacted], [redacted]-YGS

In Reply - Address to
Attention:

After review of the investigative report submitted by the staff of the office of Inspector General, I am making the following recommendations.

(A) That a letter of reprimand be issued from the superintendent which addresses the inappropriate behavior of Mr. [redacted] in a crisis situation.

(B) That in-service training be provided Mr. [redacted] in the area of crisis intervention and management.

(C) Monitor Mr. [redacted] staff-student relationship and job preformance for the next three months and at this time the superintendent will submit a report of same.

Original signed by:

L.E. Rader, Director
Department of Human Services

LER:DS:JC:bb
cc: Wesley Rucker
David Shafer
File

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 1-10-80
DATE ISSUE RESOLVED 1-11-80
DATE OF REPORT 1-14-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION BSSB
JUVENILES INVOLVED - IS-[redacted]
Gary [redacted] [redacted]

STAFF AND CLASSIFICATION
[redacted] M[redacted], YGS

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☒ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated
☐ Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Gary [redacted] alledged that approximately 10:15 P.M. on 1-9-80, he was abused by Mr. [redacted] M[redacted], YGS, in Jefferson Cottage. Gary stated that Mr. M[redacted] choked him three different times in rapid succession.(See attac

FINDINGS OF ALLEGATIONS: On January 10, 1980, Mr. M[redacted] was interviewed by this advocate, Bill Freeman, Deputy Superintendent, and Lawrence Johnson, Cottage Life Supervisor. Mr. M[redacted] gave the following account of the incident. (See attached)

ACTION TAKEN AT INSTITUTION: It is this advocate's understanding at this time that there is a possibility that Mr. M[redacted] will receive a three day suspension without pay and also go through a five day orientation program. (see attachment)

INSTITUTION'S RESPONSE: The institutional administration is in agreement with the advocate defender's report.

SIGNATURE: Robert Buckner TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT: Gary feels the incident is resolved and would like for it to be dropped. Gary also would not like to see any action taken against Mr. M[redacted].

☒ Resolved
☐ Not Resolved
☐ Other

Gary [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Upon concluding the employee acted in an inappropriate manner, he received a verbal and written reprimand. In addition, the YGS was placed on a five day "orientation" (intensive scheduled supervision).

John Leitch

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☒ Resolved at Inst. Level
☐ Unresolved
☐ Other #76

☒ Referred to State Office
☒ Report Filed-No Additional Information needed

80-1

cc: Shafer
Buckner
McReynolds

Attached Reports from:

DESCRIPTIVE STATEMENT OF ALLEGATION

He stated that he had walked out of the bathroom and shook his towel out and Mr. M[redacted] turned around and thought that he had tried to pop him with his towel. Then Mr. M[redacted] came toward him and placed his hand around his throat and started to choke him at which time Gary slapped his hand away. Then Mr. M[redacted] came toward him again placing his hand around his throat and this time Gary backed away from him and a third time Mr. M[redacted] placed his hand around his throat and pinned him up against the washer and dryer in Jefferson Cottage. He choked him for approximately thirty seconds. Gary stated that he did not receive any injury from this incident. Gary stated that after this choking incident Mr. M[redacted] continued to try to get him to fight him but that he would not. Gary listed two witnesses, Jon [redacted], and Randy [redacted].

FINDINGS OF ALLEGATIONS

Gary was in the bathroom and when he came out he shook his towel out getting water on my back and I turned around and asked him what he did that for, at which time he came up about a foot from me and began saying things to me (Mr. M[redacted] did not state any specific things that Gary had said to him but implied that they were curse words and threats, etc.) then pushed him away from me telling him to go back to his cubicle. Gary then jumped right back in my face and I pushed him away again this time I might have accidentially pushed him into the washer and dryer. Immediately after I pushed Gary the second time he started stating that I had choked him. He continued to argue with me but finally went to his cubicle. I did not choke him at any time but I might have accidentally caught his neck with my hand.

The following students were interviewed on January 10, 1980, Jon [redacted], Randy [redacted] and Donald [redacted].

Jon [redacted] gave the following account of the incident. He stated Gary came out of the bathroom and shook his towel and Mr. M[redacted] turned around and said that he had tried to pop him. Then Mr. M[redacted] grabbed Gary by his neck and Gary slapped his hand down. Then Mr. M[redacted] reached for his neck again and Gary backed away from him. The third time Mr. M[redacted] grabbed Gary by his neck they were next to the washer and dryer. Gary got away from him and started going back to his cubicle. While this was going on Gary and Mr. M[redacted] continued to argue for about thirty minutes. During this time Mr. M[redacted] tried to get Gary to fight him but Gary would not.

Randy [redacted] gave the following account of the incident. He stated that Gary came out of the bathroom and Mr. M[redacted] turned around and choked him for no reason. He stated that he only saw Mr. M[redacted] choke him one time.

Donald [redacted] stated he saw Mr. M[redacted] choke Gary and Gary slapped his hand away. Then Mr. M[redacted] reached for Gary again and Gary backed away from him. The third time Mr. M[redacted] grabbed Gary by the neck again pushing him into the washer and dryer. Donald also stated that he did not wish Mr. M[redacted] to find out that he had told the advocate he saw him choke Gary because he feared reprisal from Mr. M[redacted].

The following students were interviewed on January 11, 1980, Charles [redacted], Jimmy [redacted], and Melvin [redacted].

Charles [redacted] gave the following account of the incident. Charles stated he heard Mr. M[redacted] say to Gary "don't sling that on me" and then Gary started smarting off to Mr. M[redacted]. Charles stated that he didn't see Mr. M[redacted] choke Gary but he did hear Gary state that Mr. M[redacted] had choked him.

Jimmy [redacted] gave the following account of the incident. He stated that Gary came out of the bathroom and shook his towel out at which time Mr. M[redacted] turned around and grabbed him by the neck, it looked like he was choking him and Mr. M[redacted] said to Gary "do it again" and them Mr. M[redacted] stated he better not ever do it again.

Melvin [redacted] stated that he did not see anything or hear anything regarding this incident.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services

Date: March 8, 1978

From: William T. Saxton
Legal Investigator

Attention: Chase Gordon
Deputy General Counsel

Subject: MRK
[redacted].
Alleged Abuse of Student
at Boley State School

In Reply - Address to
Attention: ______________________

DUE DATE: March 13, 1978

Please refer to work assignment subject as above, dated March 1, 1978. This assignment was investigated by the Legal Investigator and Carl Dorr, Jr., Special Investigator, on March 6 and 7, 1978.

During the course of the investigation, Larry [redacted] was initially interviewed, transcript of which is attached. In this interview, Larry [redacted] reiterated approximately the same information that is contained in the memo from Mr. R. L. Doyle, Superintendent, dated February 7, 1978. He stated that on the morning in question, he had been assigned the cottage duty of cleaning the baseboards in one section of the cottage; however, when he got up that morning, he was not feeling well and was running a temperature. He told Mr. K[redacted] that he felt ill and was unable to perform his duties. There was considerable discussion that followed, after which Mr. K[redacted] took him to the mop closet, pulled his hair and hit him in the stomach. He stated that he did not know if any other student had seen him being taken to the closet; however, Bill [redacted] had gone to the closet to get something and had seen him in the closet with Mr. K[redacted]. Larry [redacted] also stated that on Sunday, February 26, 1978, he had gotten into an argument with several other students and had been hit in the nose by a Lonnell [redacted] and his nose was broken. Immediately following the incident of February 6, 1978, he was examined by the nurse, Vivian Wiley, who found that he was running a temperature and prescribed bedrest. On the same date, he was also seen by the doctor, who verified this and put him on bedrest. A statement concerning this incident is included in the interview of Mrs. Wiley which is attached. During the interview on this date, it was discovered that, during that morning's class, Larry [redacted] had gotten into an argument with another student by the name of Stanley [redacted] in the classroom of the school, as a result of which he was sent to the principal to receive "some licks". He stated that he received a number of "licks" from Mr. C[redacted], the principal, which had caused bruises on his legs, thighs and buttocks. These licks were administered with a strap approximately two inches wide, length unknown. Investigators had [redacted] LArry remove his pants and the bruises were examined. It appeared to both investigators that the bruises were excessive for the administering of punishment in any school system. [redacted] LARRY stated that he had resisted this punishment, as a result of which, some of the "licks" were on the leg and inside of his thighs. The bruises were not bloody; however, numerous blood vessels had been broken under the skin. Immediately following this, investigator Saxton had the student examined by nurse Wiley and by Mr. Rice, a State School staff member. The observations of the nurse are contained in her statement, and the observations by Mr. Rice are contained in a memo written by him to Mr. Doyle, a copy of which is attached.

Investigators then interviewed Bill [redacted], the student who had allegedly witnessed that portion of the incident of February 6, 1978. A copy of the transcription of this interview is attached. [redacted] BILL stated that, on the morning in question, Mr. K[redacted] had had some problem getting [redacted] LARRY out of bed to go his cottage duties. In doing his own cottage duties, [redacted] BILL went to the mop closet to get a broom. When he opened the door to the closet, he saw Mr. K[redacted] and [redacted] LARRY in the closet. Mr. K[redacted] was standing in the closet and [redacted] LARRY was crouched against the wall. He did not observe Mr. K[redacted] hit [redacted] LARRY or pull his hair. [redacted] BILL was questioned concerning the broken nose incident of February 26. He stated that, to the best of his memory, Mr. K[redacted] was in a different part of the cottage when Easley got into some kind of argument with Lonnell [redacted]. [redacted] LARRY had made some kind of statement concerning Lonnell [redacted]s mother. [redacted] LARRY placed his hands in front of his face; however, [redacted] LONNELL struck him in the nose, causing his nose to bleed. Mr. K[redacted] came up to the scene and had LARRY [redacted] go to the bath room and wash the blood from himself.

Investigators then interviewed Stanley [redacted], a copy of the transcript is attached. [redacted] STANLEY stated that, on the date of this incident, [redacted] LARRY had previously been in an argument with another student whose name he could not recall. [redacted] STANLEY stated that he told Easley and the other student to stop and [redacted] LARRY made a remark concerning [redacted] LONNIE'S mother. At this time, [redacted] LONNELL swung at [redacted] LARRY with an upper cut, striking him on the nose.

Investigator interviewed student Lee S[redacted], who was alleged to have been a witness to one or both of the above incidents. A copy of the transcript is attached. [redacted] LEE stated that he had seen [redacted] LONNELL hit [redacted] LARRY, but did not recall whether or not Mr. K[redacted] was in the immediate vicinity of the incident. He did not know much about the incident of February 6, 1978. In talking to S[redacted] Lee, investigators found that

Re: K[redacted].
Alleged Abuse of Student
at Boley State School

bed, eating breakfast and cleaning up the cottage area. The next shift does not go on duty until 7:30 A.M., placing only one houseparent in control at this time of day.

This is for your information.

William T. Saxton
William T. Saxton
Legal Investigator

Carl Dorr, Jr.
Special Investigator

WTS:erb

APPROVED:

J. Harry Johnson
General Counsel

Attachment

cc: Legal Division
LER File
JHJ File

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Insts., Social and Rehab. Services

Date: February 15, 1979

From: Robert Taylor, Advocate Defender
Oklahoma Children's Center-North

Attention: ✓ Chase Gordon, Coordinator of Insts. and Community Services for Children and Youth

Subject: [redacted] Paula
[redacted]
Adjudication: Dependent
County: Tulsa

Attention: John Leitka
Advocate General

[redacted] Flora - Youth Guidance Specialist I

REPORT OF ALLEGED MISTREATMENT OF A JUVENILE

Paula reported to this worker that she was mistreated by a staff member on 1-19-79 at approximately 11:30 p.m.

Paula said she was in her room and she asked Mrs. B[redacted] nicely if she could go to the bathroom and Mrs. B[redacted] said no. Paula said she started walking toward the bathroom and Mrs. B[redacted] told her to get her white ass back in her room. Paula said she didn't go, so Mrs. B[redacted] grabbed her by the arm and threw her into her room on her bed and said, "See if you come out again." Paula said she told Mrs. B[redacted] that she had to change her tampon and she said Mrs. B[redacted] told her to get in the corner by the window and change it.

Paula said she was mad and threw a pillow and hit Mrs. B[redacted]. At this point, Paula said Mrs. B[redacted] started toward her and said she was going to choke her and then Paula said Mrs. B[redacted] hit her on the left leg above the knee with her keys.

Paula said when Mr. Willie Ingram, YGS shift supervisor, came she asked Mrs. B[redacted] why doesn't she keep on throwing her and hitting her with her keys and Mrs. B[redacted] stood there and said she never throws the students around, curses or hits them at any time.

Paula said after everything had settled down, she tried to tell Mrs. B[redacted] she needed to go to the bathroom bad and Mrs. B[redacted] said, "Shit, you don't have to go. All you want to do is get your white ass out and start trouble some more." Paula said Mrs. B[redacted] finally let her go to the bathroom and said for her to get her white ass to bed.

Anita [redacted], student, said as she was going to her own room, she passed Paula's room and heard Paula asking Mrs. B[redacted] if she could go to the bathroom. Anita said Mrs. B[redacted] was standing in the doorway of Paula's room. She said Mrs. B[redacted] told Paula, "No", she couldn't go to the bathroom. Anita said she saw Paula attempting to leave her room and had actually gone outside her room when Mrs. B[redacted] grabbed Paula by the arm and threw her back into her room. Anita said she didn't see Mrs. B[redacted] hit Paula on the leg with her keys. Anita said Paula ran out the room and told her and another student, Sandra [redacted], that Mrs. B[redacted] had hit her with the keys and showed them a mark on her thigh.

Anita said she was standing by the door of Paula's room and heard Mrs. B[redacted] tell Paula to change her tampon in her room. Anita said Paula said no because it was nasty and it was against the rules. Anita said Mrs. B[redacted] said, "Change it anyway, and then get your white ass to bed." Anita said Paula then called Mrs. B[redacted] a black ass bitch.

Anita said Mr. Ingram came over to the cottage and they told him what Mrs. B[redacted] had done to Paula and said Mrs. B[redacted] denied all of it. Anita said Mr. Ingram talked with Paula and settled her down. She said Paula went back to her room and Mr. Ingram left the cottage. Anita said this incident occurred at approximately 11:30 p.m. on 1-19-79. She said Paula had previously been placed on room restriction for misconduct in the cottage.

Sandra [redacted], student, was interviewed and said she saw a bruise on Paula's leg, but didn't see Mrs. B[redacted] hit Paula.

Mrs. B[redacted] said at approximately 11:00 p.m. Paula was out of her room and was running from one side of the cottage to the other, cursing and calling all the YGS staff out of their names. Mrs. B[redacted] said three other staff were on duty: Mrs. [redacted] G[redacted], Mrs. [redacted] H[redacted], and Mrs. [redacted] M[redacted].

Mrs. B[redacted] said Paula was asked to go back to her room by all the staff, but would not go. She said Regina [redacted], student, Sandra [redacted], student, and Paula were sliding down the railing on the stairs. Mrs. B[redacted] said she asked them to stop before they got hurt, but they just cursed and kept right on, so finally they ran upstairs in the honor room and started turning on the water, which Paula admitted to doing. Mrs. B[redacted] said she went upstairs, got Paula and carried her to her room by the housecoat. She said she didn't hit Paula with any keys. Mrs. B[redacted] said the shift supervisor, Mr. Ingram, was called and while she was standing at Paula's door, Paula started throwing things all over her room, cursing everyone.

Mrs. B[redacted] said Paula asked to go to the bathroom to change her tampon and the shift supervisor said, "Don't let the girl out of her room." Mrs. B[redacted] said she told Paula to change the tampon in her closet. Mrs. B[redacted] said Paula had a new tampon, but threw it out in the hall and ran out of her room.

Mrs. B[redacted] said she doesn't believe in cursing the students and never cursed Paula.

Mr. Willie Ingrams, YGS shift supervisor, stated he told Mrs. B[redacted] to keep Paula in her room as per instructions of Mark Dean, Institutional Program Supervisor.

Mrs. Winifred Garretson, YGS, was on duty with Mrs. B[redacted] and said that Mrs. B[redacted] didn't hit Paula with her keys. Mrs. Garretson said they were having problems quieting the students down, especially Paula.

Mrs. [redacted] H[redacted] and Mrs. [redacted] M[redacted], YGS, were also on duty with Mrs. B[redacted] and both stated Mrs. B[redacted] did not hit Paula with keys.

The incident was reported to the Superintendent, Jack Campbell, on 2-6-79. The incident was investigated by the administration and Mr. Campbell said he was convinced that Mrs. B[redacted] did not hit Paula with her keys. He also said Mrs. B[redacted] keys were pinned to her clothing.

It is the recommendation of Mr. Campbell that Tex Rollins, Deputy Superintendent, and Mark Dean, Institutional Program Supervisor, provide Mrs. B[redacted] and fellow YGS staff with inservice training in dealing with actions and reactions to juveniles' unmanageable behavior.

In summary, Paula was the only one who could testify as to Mrs. B[redacted] hitting her on the leg with keys. Paula and another student, Anita M[redacted], stated Mrs. B[redacted] grabbed Paula and threw her into her room.

Mrs. B[redacted] stated she grabbed Paula by her housecoat and took her to her room. Two persons, Anita [redacted] and Sandra [redacted], stated they did not see Mrs. Brown hit Paula with keys. Three persons, Mrs. [redacted] GARRETSON, Mrs. Hall and Mrs. Morey, said Mrs. B[redacted] didn't hit Paula with keys.

Cottage logs indicate Paula was on her menstrual period during this time.

From testimony gathered, it is felt Mrs. B[redacted] did not hit Paula with her keys. However, Mrs. B[redacted] stated she requested that Paula change her tampon in the closet in her room.

It is also the opinion of this worker that Mrs. B[redacted] did not throw Paula into her room. Paula was not injured in the incident.

Robert Taylor
Robert Taylor, Advocate Defender

RT:br

cc: John Leitka
Jack Campbell
File

ADVOCATE GENERAL'S REPORT

TO

BICSCY COORDINATOR

H-79-38

INSTITUTION Helena

July 26, 1979

JUVENILES INVOLVED - IS-#

[redacted], Michael - [redacted]

STAFF INVOLVED-CLASSIFICATION

[redacted]

NATURE OF COMPLAINT OR REPORT

☒ ABUSE
- Physical
- Verbal

☐ POLICY
- Hearings
- Detention
- Limited Privileges
- Disciplinary Measures
- Medical
- Living Conditions

☐ OTHER ________

BRIEF STATEMENT: Mike [redacted] alleged Mr. [redacted] pulled him around on his bed by his hair on March 19, 1979.

FINDINGS OF ALLEGATIONS ☒ Substantiated ☐ Not Substantiated ☐ Unfounde

COMMENT: Mike was placed in foster care shortly after the incident took place. two juvenile witnesses supported mike's allegation. In addition, they reported mike called mr [redacted] an S.O.B. moments before the incident

ACTION TAKEN OR RECOMMENDED: Mr. Shafer recommended a written reprimand be placed in Mr. [redacted]'s file. AD supports this recommendation.

ATTACHED REPORTS FROM: D. Shafer
G. Midkiff

CHB:j
cc: Shafer
Norwood
Midkiff

#15

H-79-38

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

UW
DE 80-3

DATE ISSUE REPORTED January 4, 1980
DATE ISSUE RESOLVED ______

DATE OF REPORT January 8, 1980

ADVOCATE DEFENDER'S REPORT

INSTITUTION Lloyd E. Rader D&E Center

JUVENILES INVOLVED - IS-#
[redacted], Tammy [redacted] / [redacted]

STAFF AND CLASSIFICATION
Ms. [redacted] / Youth Guidance Specialist

TYPE OF REPORT

☐ Grievance

☐ Policy Violation

☒ Abuse ☐ Physical ☒ Verbal

☐ Policy Clarification

☐ Other

AREA OF ISSUE

☐ Hearings

☐ Detention

☐ Limited Privileges

☐ Disciplinary Measures

☐ Medical

☐ Living Conditions

☒ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated

☐ Not Substantiated

☐ Unfounded

☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: YGS [redacted] became emotionally distraught while on duty and verbally and physically threatened Juvenile [redacted]. During the incident, the following statements were alleged to have been made by YGS [redacted], "I'm going (over)

FINDINGS OF ALLEGATIONS: Based upon the testimony of witnesses Dale Scott - Security, Jim Overstreet - CLS, and Ruth Stewart - YGS, the allegations were substantiated. According to the witnesses, Juvenile [redacted] mood and attitude on the morning of (over

ACTION TAKEN AT INSTITUTION: Incident was investigated by Institution and resulted in severe reprimand being given to YGS [redacted] with notation being made in her personnel file. YGS [redacted] was moved from the 7-3 shift to the 11-7 shift and was moved from (ove

INSTITUTION'S RESPONSE: This behavior on the part of Ms. [redacted] will not be tolerated and if further instances occurr a recommendation for termination will be submitted.

SIGNATURE: ______ TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT: ______

☐ Resolved
☐ Not Resolved
☐ Other

______
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: - SEE ATTACHED COMMENT -

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☒ Resolved at Inst. Level

☐ Unresolved

☐ Other

☐ Referred to State Office

☒ Report Filed-No Additional Information needed

Attached Reports from:

CC: Shafer
Wilkerson
Hoover

Okla. DISRS Issued 11-1-79

BICSCY-1

#58

DE-80-3

DESCRIPTIVE STATEMENT OF ALLEGATION: (Cont'd) to see that you (Juvenile [redacted]) get it before the days over". "That lying little bitch, let me at her." "That little two bit whore isn't going to make me lose my job." It was also alleged YGS H[redacted] stated at the conclusion of the incident, "I still think you ought to let me take one swing at her". It was also alleged that YGS H[redacted] came running down the hallway with a pencil clutched in her fist in an attempt to get to Juvenile [redacted] and attempted to strike the Juvenile.

FINDINGS OF ALLEGATIONS: (Cont'd) January 11, 1980 was one of hostility. The Juvenile was talked with about her attitude by one of the YGS's on duty. Following lunch, Juvenile [redacted] was sitting at the smoking table with two other Juveniles. YGS H[redacted] was playing cards at another table with two Juveniles. YGS H[redacted] yelled at Juvenile [redacted] to drop the subject she was talking about. Juvenile [redacted] yelled back it was none of her business what she was talking about. The Juvenile and YGS continued to argue back and forth and YGS H[redacted] gave Juvenile [redacted] a one hour early bedtime for having disrespect for the YGS. Juvenile [redacted] Yelled she wanted to see the Superintendent or Mr. Scott, Security Chief. The other YGS on duty, Ruth Steward, called for the Campus Life Supervisor prior to the CLS arrival, YGS H[redacted] dropped Juvenile [redacted] a level and according to YGS Steward stated "I'm going to see that you get it before the days over". Upon CLS Jim Overstreet's arrival, he informed Juvenile [redacted] that if YGS H[redacted] had dropped her for back talk, he was not going to do anything about it and that she would have to talk to the Cottage Committee. Juvenile [redacted] then asked to talk with Mr. Scott. CLS Overstreet called Mr. Scott. Mr. Scott asked Juvenile [redacted] to accompany him to the YGS office and on the way Juvenile [redacted] was telling him about the incident. At this point, YGS H[redacted] came rushing down the hallway, with a pencil clutched in her fist, trying to reach Juvenile [redacted] and yelling, "that lying little bitch, let me at her, I'll whip her ass". According to Mr. Scott, YGS H[redacted] threw a punch at Juvenile [redacted] with the hand that contained the pencil. Mr. Scott was able to fend the blow enough so that it struck him lightly on the shoulder, and he and CLS Overstreet restrained YGS H[redacted]. Mr. Scott stated YGS H[redacted] was not using the pencil as a weapon and felt she was not even aware that she had the pencil in her hand. CLS Overstreet took YGS H[redacted] into the nearest room, which happened to be the time-out-room, and tried to calm her down. At this point, YGS H[redacted] yelled "that little two bit whore isn't going to make me lose my job". According to CLS Overstreet, YGS H[redacted] was crying and shaking all over and he advised her that she should go home and get her self together. YGS H[redacted] asked to speak with Mr. Scott. According to Mr. Scott, he was able to settle YGS H[redacted] down and also advised her to go home. Mr. Scott stated that during his conversation with YGS H[redacted], she made a statement to the effect, "I still think you ought to let me take one swing at her". YGS H[redacted] was then sent home. According to Mr. Scott, Juvenile [redacted] was not out of control during the incident.

Attached you will find reports from Bob Hulsey, A.O.D., Jim Overstreet, C.L.S., and Ruth Steward, Y.G.S., and Marvin Wiebener, Superintendent.

ACTION TAKEN AT INSTITUTION: (Cont'd) Aquarius Cottage. She will work one night on Viking Cottage and four nights on Friendship Cottage. There will be other YGS's on duty with her.

On January 15, 1980, YGS H[redacted] resigned and is no longer employed at the Rader Center.

RECEIVED
JAN 21 [illegible]
Division of
Institutional
Services

H-79-⑦

ADVOCATE GENERAL'S REPORT

TO

BICSCY COORDINATOR

INSTITUTION Helena

August 14, 1979

JUVENILES INVOLVED - IS-#

Tony [redacted] - [redacted]

STAFF INVOLVED-CLASSIFICATION

Mr. L

[redacted]-YGS

NATURE OF COMPLAINT OR REPORT

☒ ABUSE ☐ POLICY ☐ OTHER

Physical
Verbal

Hearings
Detention
Limited Privileges

Disciplinary Measures
Medical
Living Conditions

BRIEF STATEMENT: The institution reported a juvenile had been held in a "head lock" and struck several times by a YGS.

FINDINGS OF ALLEGATIONS ☒ Substantiated ☐ Not Substantiated ☐ Unfounde

COMMENT: Mr. L[redacted] did not deny the allegation. One YGS and two juveniles witnessed and confirmed the incident.

ACTION TAKEN OR RECOMMENDED YGS terminated effective March 1, 1979.

TACHED REPORTS FROM: Midkiff-AD
Shafer-DIS

J:j
cc: Shafer
Norwood
Midkiff

#6

John Leitch Jr.

H 79-7

attached to report

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services

Date: January 11, 1979

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Community
Services for Children and Youth

Subject: tony [redacted]
Allegation of Physical Abuse of a Resident against [redacted] Mr. L.

Sp. Attention: John Leitka, Advocate General

Although there are other residents of Corvette Cottage who could still be interviewed, I am preparing this memo without having done so in order to have this information available there before the week-end. I was not informed of the alleged incident until the morning of the 9th.

Mr. L
[redacted] is alleged to have physically abused Tony [redacted]) on the evening of January 6. Mr. Bob Wright, the Administrator on Duty, investigated the incident and provided a report to Mr. Snowbarger which was then sent to Mr. Shafer in a memo dated January 8, 1979.

According to Tony, Mr. L[redacted] had him in a headlock in his cubicle and hit him with his fist on the head 15 to 20 times before Mr. Jerry Dark, another staff member, separated them. Tony indicated that earlier in the evening Mr. L[redacted] had given him a write-up for throwing a tissue at another boy but that Mr. L[redacted] had told him it would not be turned in if there were no further problems. On the way to the gym Tony was accused by Mr. L[redacted] of having kicked snow on another boy. Tony maintains that he was stomping his feet to get the snow off while at least one boy feels he was kicking the snow. As a result Mr. L[redacted] informed Tony that the write-up would be turned in.

At approximately 7:00 to 7:15 p.m. that evening, after they had returned to the cottage, Mr. L[redacted] called Tony to take his shower. Tony came to the desk and asked Mr. L[redacted] if he was still getting the write-up to which Mr. L[redacted] replied, "Yeah, you got the write-up, you little punk." Tony [redacted] replied, "You're the punk." Tony then reports that Mr. L[redacted] began saying, "You want to hit me, don't you. Come on and hit me right here (showing his chin)." Tony states that he began to return to his room and that L[redacted] continued making similar comments. Tony states that he then said, "You're sorry, boy," and Mr. L[redacted] came to his room and grabbed him by the shirt with both hands, pushing him to the bed. The dialogue continued. Tony tried to get up one or two times and was pushed back down. Tony then maintains that he pushed Mr. L[redacted] off and got up. Tony started to take off his watch, and Mr. L[redacted] said, "Come on, come on." Tony states that he was not intending to fight, only to continue with his shower, and there is no indication that he ever lunged for Mr. L[redacted] or made other threatening gestures. Before Mr. L[redacted] came to his room Tony was in the process of removing his pants, and in addition to removing his watch he also took off his shirt.

Tony stated that he tried to leave his room to go in the direction of the shower and that Mr. L[redacted] pushed him back into his room and over the bed. Mr. L[redacted] then entered the room and got Tony in a headlock. He was hitting Tony on the head when Mr. Dark, who had been visiting with another boy on the cottage, came down and intervened. Kevin [redacted] and Michael [redacted] confirm most of Tony's story although Oliver stated that Mr. L[redacted] went back into Tony's room because Tony had called him a "black assed mother-fucker." Both boys indicate that Tony never lunged at or hit at Mr. L[redacted] prior to Mr. L[redacted] hitting him.

Mr. Dark states that he saw Mr. [redacted] with Tony in a headlock and hitting him on the head although he knew nothing of the circumstances leading upto the incident. Mike [redacted] maintains that Mr. [redacted] only had Tony around the chest and over the arms, trying to prevent Tony from hitting him. Mike maintained his story even after being told that Mr. Dark had seen Mr. [redacted] holding Tony's head and hitting him.

All of the boys indicate that Mr. [redacted] has been ill-tempered for some weeks, yelling and screaming at the boys with little provocation. All of those interviewed indicated that they had at one time or another heard Mr. [redacted] try to incite other boys to fight or make threats of kicking their butts, etc. As background information it should be noted that about a month ago several boys on this cottage were involved in stealing Mr. [redacted]'s car, and most of the boys attribute his current attitude toward the cottage to this incident.

I have not talked with Mr. [redacted] personally, but it is my understanding that he has not denied the incident in discussions with Mr. Wright and Mr. Snowbarger.

cc: Howard Snowbarger, Superintendent
Helena State School for Boys

A.D. File

ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

INSTITUTION Boley

JUVENILES INVOLVED
[redacted], Donnie IS-B 2012

STAFF INVOLVED
Mr. F
[redacted] - YGS

TURE OF COMPLAINT OR REPORT

☒ ABUSE
[✓ PHYSICAL]
VERBAL

☐ POLICY
HEARINGS
DETENTION
LIMITED PRIVILEGES

DISCIPLINARY MEASURES
MEDICAL
LIVING CONDITIONS

OTHER

BRIEF STATEMENT: Donnie [redacted] reported being physically abused by Mr. F[redacted].YG The juvenile alleged he was (1) kicked in the back of the leg (2) choked-jeans placed around neck and pulled with both hands (3) grabbed around the neck-leg an slammed to the floor.

FINDINGS OF ALLEGATIONS ☒ SUBSTANTIATED ☐ NOT SUBSTANTIATED

COMMENT: Mr. F[redacted] denied the allegations. Eight juveniles reportedly witness the incident and supported Donnie's claim. Two juveniles did not observe the incident. Ms. Debra Copeland-YGS reluctantly supported the juvenile's allegation but implied being intimidated by the other YGS'. All parties interviewed were willing to submit to a polygraph test.

ACTION TAKEN OR RECOMMENDED Mr. F[redacted] has been relieved of his duties pending further inves gation into the incident. Reports and recommendations needed fro Supt. and DIS Supv. In view of available information, disciplinary action-possibly termination appears to be warranted.

ATTACHED REPORTS FROM: AG
Two Incident Reports-Copeland
One Incident Report-[redacted]
Doyle-Superintendent

Recommend termination

cc: Morris
Shafer
6-28-79

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To Mr. L.E. Rader, Director
Dept. of Insts., Soc. & Rehab. Serv.

Date: 7-2-79

From Ralph McReynolds, Advocate Defender
Boley State School For Boys

Attention: Chase Gordon, Coordinator, Bureau of Institutions and Community Services
SPECIAL ATTENTION: John Leitka, Advocate General

Subject: ABUSE INVESTIGATION
[redacted], Donnie
IS-B-2012

In Reply - Address to
Attention: ______

Donnie [redacted] registered a complaint with the advocate defender at Boley on June 26, 1979, at 12:40 P.M. Donnie was alleging that Mr. [redacted] [redacted], YGS, had kicked him, choked him with a pair of jeans and picked him up and threw him down, at approximately 6:30 P.M. on June 25, 1979. According to Donnie he was taking a shower and he and Johnny [redacted] started throwing shampoo bottles at each other. He threw a shampoo bottle at Johnny [redacted] and hit him in the head at which time Johnny told Mrs. Copeland. Mrs. Copeland called the shift chief's office for assistance and they sent Mr. F[redacted] down. While Mr. F[redacted] was coming down, Donnie had gone to his cubicle. Donnie stated that Mr. F[redacted] came to his cubicle and told him to come on and he asked what for. Mr. F[redacted] told him don't ask me anything just come on. At that time Donnie stated that Mr. F[redacted] grabbed him by the shoulder to pull him out of the cubicle and kicked him on his right thigh. According to Donnie as he walked toward the door, Mr. F[redacted] grabbed a pair of jeans he had in his hands and wrapped them around his neck and started choking him. Donnie stated that he gagged a couple of times and Mr. F[redacted] took the jeans from around his neck and at that time picked him up in the air and slammed him down on the floor on his back. Then Mr. F[redacted] picked him up and took him to detention, he stated that he did not resist at any time. Donnie listed four students as witnesses but stated almost the entire cottage saw the incident. Students named were Lennie [redacted], Calvin [redacted], Michael [redacted], and Calvin R[redacted]s. These students as well as Mr. F[redacted] and Mrs. Deborah Copeland, YGS, were interviewed by this advocate on this same day.

On June 26, 1979, with the permission of Deputy Superintendent, Mr. Bill Freeman, this advocate took Donnie [redacted] to the infirmary to have the institutional nurse, Vivian Wiley, examine several bruises on Donnie's right hip area.

Michael [redacted] gave the following account of the incident. Michael stated that Mrs. Copeland was having problems with Donnie [redacted] in the shower and she called the shift chief's office for assistance and Mr. F[redacted] came down to the cottage and went to Donnie's cubicle and said get your clothes on and lets go. Donnie asked where are we going and Mr. F[redacted] said just get your damn clothes on, at that time Donnie started hurrying up and Mr. F[redacted] just grabbed him and kicked him in the rear. Michael stated that Donnie didn't have any clothes on, just his underwear. Michael stated that Mr. F[redacted] grabbed a pair of jeans and choked Donnie with them, at which time Donnie fell to the floor and Mr. F[redacted] grabbed him with one hand around his neck and the other on his leg and picked him up over his head and then threw him back down on the floor with Donnie landing on his back.

[illegible]

Lennie [redacted] gave the following account of the incident. Lennie stated that Donnie [redacted] and Johnny [redacted] were playing in the shower and Donnie got mad and started raising heck so Mrs. Copeland called the shift chief's office, Mr. F[redacted] came down and went to Donnie's cubicle and told Donnie, "come on you're going to the hole," and Donnie said"what", then Mr. F[redacted] grabbed him and kicked him in the right thigh area. Then Donnie started walking toward the door and Mr. F[redacted] grabbed a pair of blue jeans and put them around his neck and began choking Donnie, he started gagging and stuff like that and fell to the floor at which time Mr. F[redacted] put one hand around his neck and one hand behing his leg and picked Donnie up about head high and then slammed him to the floor. Donnie hit the floor on his back and started crying, then Mr. F[redacted] said get up you son of a bitch and picked him back up and took him out the door.

Calvin [redacted] gave the following account of the incident. Calvin stated that Donnie [redacted] and Johnny [redacted] were in the shower and Donnie hit Johnny [redacted] in the head with an empty shampoo bottle at which time Mrs. Copeland called the shift chief's office and Mr. F[redacted] came down to get Donnie [redacted]. Mr. F[redacted] went to Donnie's cubicle and they were cussing, I couldn't understand all the words they said, then Mr. F[redacted] kicked him on his right thigh and then grabbed a pair of jeans and put them around Donnie's neck and choked him. Calvin then stated Mr. F[redacted] grabbed Donnie by his leg and neck and picked him up and then threw him down on the floor, Donnie started crying and Mr. F[redacted] picked him up and they went to detention.

Calvin [redacted] gave the following account of the incident. Calvin stated that Donnie and Johnny [redacted] were throwing things at each other in the shower and Mrs. Copeland calleddthe shift chief's office for assistance. Mr. F[redacted] came down and went to Donnie's cubicle at which time he kicked Donnie in his right hip area. After Mr. F[redacted] kicked Donnie, Donnie started walking real fast. Mr. F[redacted] grabbed a pair of jeans and wrapped them around Donnie's neck and started choking him with them. Then he put one hand around his neck and one hand around his leg and picked him up and then threw Donnie down. Calvin stated this happened in the middle of the floor.

On June 26, 1979, Mr. R.L. Doyle and this advocate interviewed Mr. [redacted] F[redacted], YGS. Mr. F[redacted] gave the following account of the incident. Mr. F[redacted] indicated that he had been sent to Truman cottage by the shift chief as a result of a request by the YGS on duty, Deborah Copeland, who indicated she needed some assistance with some students in the dorm. According to Mr. F[redacted] he grabbed Donnie from behind and attempted to pick him up in a basket hold but Donnie was wet and slippery and he dropped him to the floor. He also stated that he placed a pair of jeans around Donnie's neck trying to get him to put them on but at no time did he choke him. He also stated that he never kicked Donnie.

On June 26, 1979, Mr. R.L. Doyle and this advocate interviewed Mrs. Deborah Copeland, YGS. Mrs. Copeland gave the following account of the incident. Mrs. Copeland stated that she called the shift chief's office as Donnie was not minding her and Mr. F[redacted] came down to get Donnie. Mrs. Copeland stated that she heard Donnie and Mr. F[redacted] arguing but did not know what they were saying. Mrs. Copeland stated Mr. F[redacted] pulled Donnie out of his cubicle and all Donnie had on was his underwear. Mr. F[redacted] then kicked Donnie in the rear. When they got down by the desk Mr. F[redacted] put a pair of jeans around Donnie's neck and pulled on them, Donnie grabbed the jeans and acted like he was choking. Mr. F[redacted] pulled the jeans from around his neck and picked him up in the air and slammed him down on the floor on his back. Then he jerked him back off the floor and made him walk on out the door. Donnie acted like he was hurt, I don't know whether he was or not for sure. If someone did that to me I know I'd be hurt, I do believe Donnie was hurt.

Allegations made by Donnie [redacted] were that a YGS, Mr. [redacted] F[redacted], had kicked him, choked him with a pair of jeans, and picked him up and thrown him to the floor. Mr John Leitka, Advocate General, came to the campus on June 27, 1979, and conducted an investigation due to the seriousness of the allegations made by Donnie [redacted] Therefore, I have concluded my investigation into this incident.

Ralph McReynolds
Ralph McReynolds, Advocate Defender
Boley State School For Boys

RM/ljm

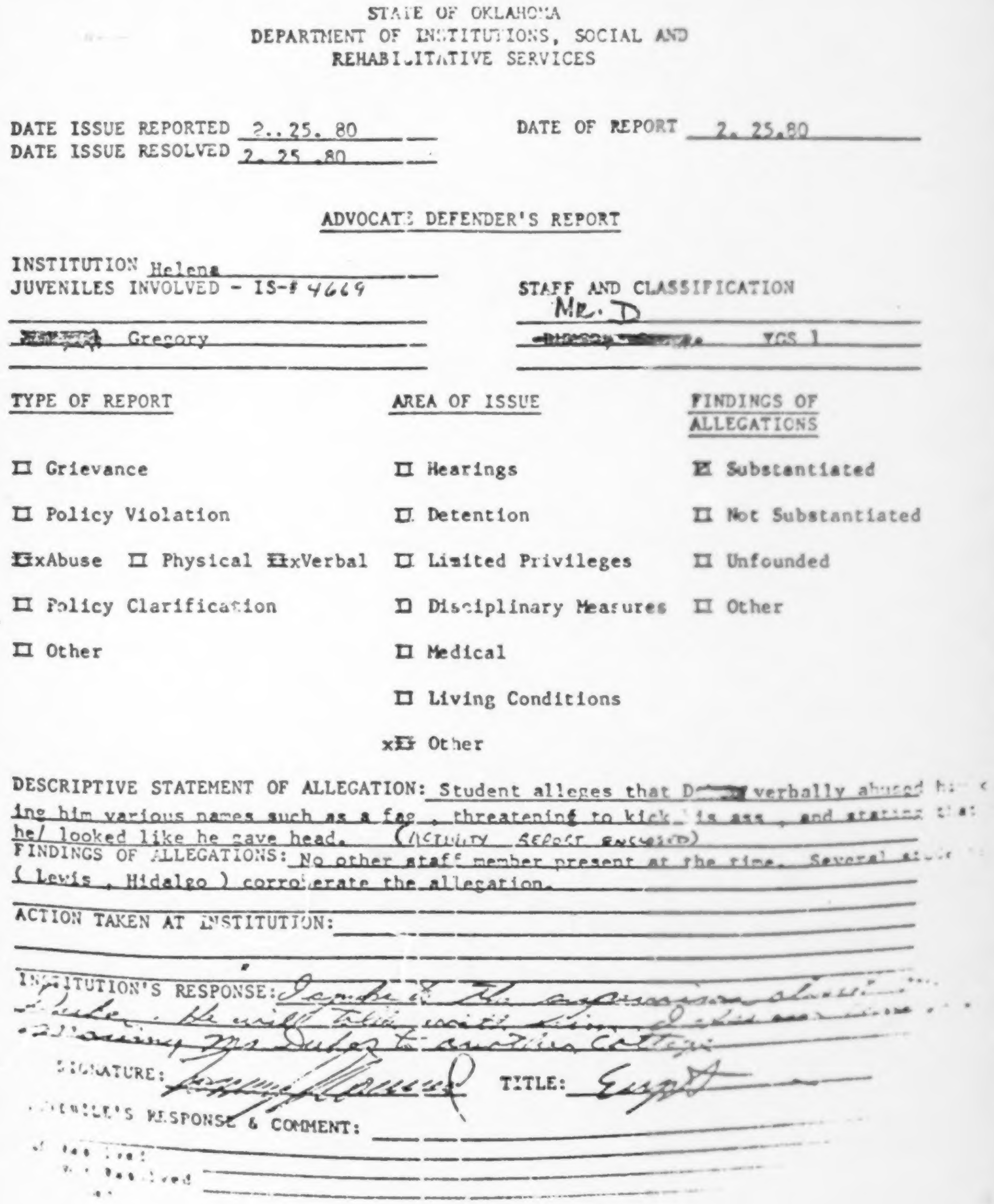
cc: C. Gordon
R.L. Doyle

4. Verbal Abuse

The Subcommittee's review of abuse reports indicated that a pattern and practice of verbal abuse also existed in the Oklahoma institutions. The destructive nature and counter-productive influence verbal attacks have on juveniles is most often less visible than the negative effects wrought by physical abuse, but they are no less powerful and impressive.

The following are illustrative:

(EXAMPLE 1.—This case is particularly upsetting because Youth Guidance Specialists involved appears to have emphasized student neediness. The pain of being "different" is something all institutionalized youth live with daily and is accompanied by a sense of failure of having no one who loves them. To be reprimanded and threatened with a reminder of their lives' emptiness serves only to decrease the students self-esteem.)



STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 2. 25. 80
DATE ISSUE RESOLVED 2. 25 .80
DATE OF REPORT 2. 25.80

ADVOCATE DEFENDER'S REPORT

INSTITUTION Helena
JUVENILES INVOLVED - IS-# 4669
[redacted] Gregory

STAFF AND CLASSIFICATION
Mr. D
[redacted] YGS 1

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☒ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒xAbuse ☐ Physical ☒xVerbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☐ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	x☒ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges that D[redacted] verbally abused hi ing him various names such as a fag , threatening to kick his ass , and stating that he/ looked like he gave head. (Activity Report enclosed)

FINDINGS OF ALLEGATIONS: No other staff member present at the time. Several stu (Lewis , Hidalgo) corroberate the allegation.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: I spoke to the supervisor about [illegible]. He will talk with him. I also am [illegible] moving Mr. [illegible] to another cottage.

SIGNATURE: [illegible] TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT:

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

B-78-(17)

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: November 14, 1978

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: JUVENILE'S COMPLAINT-VERBAL ABUSE
BOLEY STATE SCHOOL FOR BOYS
[redacted], Charles-IS-B 1827
T[redacted]-YOUTH GUIDANCE SPECIALIST
FOR INFORMATION ONLY

Reply - Address to
Attention: ________________________

Charles [redacted], student, lodged a complaint with the Advocate Defender claiming he had been verbally abused by [redacted] Ms. T Youth Guidance Specialist. Charles was supposedly told he was crazy and needed to see a psychiatrist.

Mrs. T[redacted] acknowledged reacting to Charles by using words such as "hell, dammit, and shut-up" for being told to "go f--k herself".

In discussing the allegations with Institutional Program Supervisor, Mrs. T[redacted] reportedly realized her remarks were immature and would make an effort to avoid such incidents in the future.

In veiw of Mrs. T[redacted] statement to avoid similar future incidents, as well as being verbally reprimanded by her immediate supervisor, no further action is being recommended.

Attached are reports from the Superintendent and Advocate Defender.

JLJ:jr

Attachment

John Leitka Jr.

CC: Shafer 12-11-78 jd
Doyle
McReynold

#113

ok/Cq

B-78-17

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Mr. L.E. Rader, Director
Dept. of Insts., Soc. & Rehab. Serv.

Date: 9-13-78

From: Ms. Sue Kay, Advocate Defender
Boley State School For Boys

Attention: Mr. Chase Gordon, Coordinator Bureau
of Community & Institutional Services
SPECIAL ATTENTION: Mr. John Leitka
Advocate General

Subject: JUVENILE GRIEVANCE AND RESOLUTION
Charles [redacted]
[redacted]

In Reply - Address to
Attention:

Charles [redacted] lodged two grievances with the Advocate Defender. Both grievances contained allegations that a houseparent, [redacted] [redacted], had verbally abused him by telling him he was a crazy fool and needed to see a psychiatrist because he was sick.

The grievance was taken to Mr. Staton because Mr. Doyle was gone. Mr. Staton referred the complaint to Mr. Crowson, Program Supervisor, who counseled with Mrs. [redacted]. A copy of Mr. Crowson's report is attached.

I am submitting this report for your information, and I feel no further action is needed.

Sue Kay
Sue Kay, Advocate Defender

SK/ljm

cc: Chase Gordon
R.L. Doyle

(EXAMPLE 2)

C-81-3

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED May 7, 1981
DATE ISSUE RESOLVED ______

DATE OF REPORT May 7, 1981

ADVOCATE DEFENDER'S REPORT

INSTITUTION COJTC
JUVENILES INVOLVED - IS-#
Irene [redacted]

STAFF AND CLASSIFICATION
[redacted] Mrs. Y

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☐ Physical ☒ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☒ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated
☐ Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Irene [redacted] asked the student representat
o call Lodiska to see if she could go to the cottage early. Pat talked to Ire
the phone and allowed her to go to the cottage. When the student representa

FINDINGS OF ALLEGATIONS: ______

TION TAKEN AT INSTITUTION: ______

TION'S RESPONSE: ______

URE: V. Hearinson TITLE: ______

RESP & COMMENT: ______

(DESCRIPTIVE STATEMENT OF ALLEGATION)

informed Mrs. [redacted] the VGS on Rose Cottage, that Irene was to go to Lodiska Ms [redacted]ecame very angry stating that Irene did not clean up the bathroom and was always threatening to hit her ([redacted]). She also stated that she invited Irene to hit her so she could do the same to Irene. At the time, Ms. [redacted] made this statement to the student representative, Irene was standing about 15 feet away and she turned and looked at Irene when she made the statement. I told Ms. [redacted] that sounded like a threat. She said it was not a threat but that if Irene hit her she would do the same to Irene. In my opinion, Ms [redacted] remarks are verbal threats of physical violence. While it is true that Irene does make threats of hitting staff at various times, for the staff to invite a student to hit them in order to retaliate against the student is no less than a verbal threat of physical force and is not an appropriate method of control.

RECEIVED
JUN 11 1981
Dept. of Human

(EXAMPLE 3)

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

o: L. E. Rader, Director
Department of Human Services

Date: December 31, 1980

rom: Bill Mahieu, Advocate Defender
Helena State School for Boys

Attention: Wesley Rucker, Executive Asst., BICS
John Leitka, Advocate General

ubject: [redacted], Sherman
[redacted]

In Reply—Address to
Attention: ____________________

Student Sherman [redacted] said Mrs. T[redacted] called them lousy niggers when they were going to the show.

Student Wilbur [redacted] said Mrs. T[redacted] called us all lying niggers. There was Student Clarence [redacted], Student Sherman [redacted], and me. We were going to the show. I heard her say it so I asked her what she said. She said that's right you all are a bunch of lying niggers. It happened last week-end on a day Mr. Jaworsky was on the campus.

Student Clarence [redacted] said Mrs. T[redacted] called me, Student Sherman [redacted]r, and Student [redacted] a bunch of dirty lying niggers, as we were getting ready to go to the movie last Sunday.

Mrs [redacted] T[redacted] said the day after Christmas she was confronting Student Clarence [redacted] and Student Sherman [redacted]r about racial problems in the cottage. She said the whites say they are going to jump on you niggers and then you guys say you are going to jump on the pecker woods.

BLM:cjr

cc: File

5. *Abuses in School*

A number of the abuse reports filed at Whitaker involved actions taken by teachers at the Whitaker School who are employees of the local public school system. As the reports which follow indicate, many of the complaints involved allegations that teachers or the principal used excessive force in administering corporal punishment. The reports cited incidents of both physical abuse (bruises and other injuries) and verbal abuse (name calling, racial slurs and profanity).

In June of 1980, R. Chase Gordon, in a memorandum to L. E. Rader, noted that:

"During the six month period, December 1979 through May 1980, there have been sixteen incidents of alleged physical and/or verbal abuse reported by students of the Whitaker State Children's Home against teachers of the Pryor school system."

Gordon further noted:

"The present practice is to refer these complaints to the superintendent of the public schools; however, to date, no action has been taken on any of them, and in most cases there has not even been a reply."

The memorandum closed with the request that Departmental officials consider the problem.

The next memorandum provided to the Subcommittee on this issue is dated August, 1981, a full year later. In that memorandum Gary Hunt, the Superintendent at Whitaker, reported to L. E. Rader on a meeting held with representatives of the Pryor Public Schools to discuss the forced administration of corporal punishment at the Whitaker School. According to the memorandum, the parties agreed that unwilling students would not be physically forced to receive corporal punishment but would be subject to other sanctions utilized for problem juveniles at Whitaker. However, as the reports indicate, student complaints about mistreatment at the Whitaker School still continued after August 1981.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 2-14-80
DATE ISSUE RESOLVED 2-19-80
DATE OF REPORT 2-15-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH

JUVENILES INVOLVED - IS-#
KELLY W[redacted]
WITNESS[redacted], SOCIAL WORKER, WSCH. MR W

STAFF AND CLASSIFICATION
Mr. H[redacted] - PRINCIPAL, WSCH SCHOOL
MR. L[redacted] TEACHER, WSCH SCHOOL

TYPE OF REPORT
☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE
☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS
☒ Substantiated
☐ Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges excessive and abusive force was used in administering corporal punishment by Mr. H[redacted] and Mr. L[redacted].

FINDINGS OF ALLEGATIONS: STUDENT'S STATEMENT SUPPORTED BY WITNESS ([redacted] MR. W SOCIAL WORKER), REGARDING PHYSICAL COERCION IN DISCIPLINE MEASURE. ATTACHED IS REPORT FROM NURSE SCHEFFEL REGARDING OBSERVATION OF KELLY FOLLOWING INCIDENT ON 2-14-80, AS WELL AS FOLLOW-UP OBSERVATION 2-15-80.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to 2-19-80 letter from Mr. Hunt, Supt.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob ~~[illegible]~~ Shafer re. letter Mr. Hunt is sending to school system

☐ Resolved
☐ Not Resolved
☒ Other

Kelly [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Since the institution superintendent referred the matter to the Superintendent of Pryor of Public Schools, the AG will not make further inquiry into grievance.

John [illegible]

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☒ Other
☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

cc: Shafer
Hunt
Mitchell

#43

W-80-19

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Bob Mitchell
Date: 2/14/80

From: Chris Scheffel
Attention: Larry Staton
Gary Hunt

Subject: Kelly [redacted]
In Reply - Address to
Attention: ____________________

2/14/80
Kelly has one bruise 2 x ½" on her L. buttock. The lower lip is also bruised and there are six small marks on the left side of her back.

2/15/80
The bruise on Kelly's [redacted] buttock has faded and is only 1 x ½" this a.m. The lip bruise is hardly noticable and the small marks on the left side of her back only number five as one has completely disappeared. There are very faint petechia on both biceps which she did not show me yesterday. Considering that Kelly stated that she "fought like a tiger" the bruises appear very minor indeed.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Gary W. Hunt, Superintendent
Date: February 15, 1980

From: Larry D. Staton, Deputy Superintendent
Attention:

Subject: INCIDENT BETWEEN MR. [redacted] H[redacted], PRINCIPAL, WHITAKER SCHOOL; AND KELLY [redacted], STUDENT.

In Reply - Address to
Attention:

At approximately 2:30 P.M., February 14, 1980, Mr. H[redacted] called me regarding a problem he was having with Kelly [redacted]. Mr. H[redacted] started explaining to me what was going on and I heard Kelly screaming at him to stop his lying; that she wanted to talk to myself or Mr. Hunt. Mr. H[redacted] asked Kelly to sit down and be quiet, so he could talk to me. Kelly refused to sit down and continued screaming. Every time Mr. H[redacted] started talking, Kelly started screaming that he had better stop his lying. Mr. H[redacted] asked her three or four times to sit down and be quiet until he finished talking. Kelly refused. I heard the receiver being laid down on the desk and I heard Mr. H[redacted] say something to the effect that "I told you to sit down." There appeared to be a scuffle and I heard Kelly screaming "You can't do that to me; you have no right to touch me; get your hands off of me." Then I heard Kelly say, "You had no right to hit me." Then I heard what I thought to be "swats being given." It sounded as though it was three swats with a paddle. Mr. H[redacted] came back to the telephone and asked that I come over to his office.

When I reached Mr. H[redacted]' office, Kelly was still screaming, saying, "You had no right to treat me that way; you are not my parent; you are no kin to me; no one has the right to treat me that way, I'm not an animal."

I talked with Kelly about her responsibility in this situation; how the incident could have been avoided if she sat down until Mr. H[redacted] finished talking. Kelly calmed down and at the time I left Mr. H[redacted]' office, she and Mr. H[redacted] were sitting calmly, talking about the incident.

At approximately 3:30 P.M., the same date, I received a call from Mr. H[redacted] stating that Danny M[redacted], another student, had come into his office, cursing him; accusing him of abusing Kelly and making threats toward him.

I went over and talked to Danny. I handled this situation without any incident. On my way back from talking to Danny, I saw Kelly [redacted], so I talked to her about getting Danny upset about the incident. Kelly told me that she did not talk to Danny [redacted] until after he had cursed and threatened Mr. H[redacted]. She said that some other student told Danny. She stated to me that she felt the incident was over, as far as she was concerned and that she did not intend to talk with Mr. M[redacted] about the incident, however, someone else had told Mr. M[redacted] about the incident and that he had called Kelly and asked her to write a report. I told Kelly that she had the right not to write a report, if she desired not to. However, it was her right to talk with Mr. M[redacted] if she wanted to. She stated that she would write a report if Mr. M[redacted] wanted her to, but she planned to not be here due to an upcoming change of placement. While I was talking with Kelly, Mr. M[redacted] came up and listened to part of our conversation. I said to Kelly, "I didn't know who reported this to Mr. M[redacted], or maybe Mr. H[redacted] reported it to Mr. M[redacted]." Mr. M[redacted] said "No, that is not where I got my information." I explained to Kelly that when we heard of an incident, Mr. M[redacted] was advised.

Larry D. Staton
LARRY D. STATON, DEPUTY SUPERINTENDENT

LDS:pm

On Thursday, 2·14·80, at approximately ~~th~~ 2:30 PM, as I walking toward the school building on campus, I heard screaming and yelling coming from the building. As I approached, I observed Mr. H[redacted] and another man on their knees, attempting to restrain someone, apparently. As I watched from outside, I saw ~~thay~~ that they were attemp to administer a "paddling" to someone. I heard alot of screaming and yelling and the crack of a paddle against some several times. I entered the main off from the north door. Upon entering th office, I asked who was in with the principal, and the response was "Kelly [redacted]".

I was shocked and appalled that two grown men would have a 16 year old young lady on the floor beating her. It seems to me as though ~~they~~ in beating a maturing 16 year girl, along with the discipline aspect of the situation, one must look at the power struggle and sexuality of the situation, also.

Mr. W [redacted]

DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES
(Department of Public Welfare)
STATE OF OKLAHOMA

DEPARTMENT OF HUMAN SERVICES
WHITAKER STATE CHILDREN'S HOME
Box 98, Pryor, Oklahoma 74361

February 19, 1980

Dr. Larry Burdick, Superintendent
Pryor Public School System
Pryor, Oklahoma

Re: Kelly [redacted]

Dear Dr. Burdick:

On 2-14-80, Mr. H [redacted], principal of Whitaker School and instructor, Mr. L [redacted] were involved in the administration of corporal punishment to a Whitaker student. The student felt the physical confrontation was excessive and has filed a grievance. Attached is a copy of her statement and the grievance as filed through the Advocate Defender.

Briefly, in talking with Mr. H[redacted], his account of the incident coincides with that of the student's. Mr. Larry Stator, Deputy Superintendent and Mr. W[redacted], Social Worker, are listed as witnesses and their statements would be available upon your request.

Sincerely,

Gary W. Hunt

Gary W. Hunt
Superintendent

GWH:ph

Attachment

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 10-28-80 DATE OF REPORT 10-29-80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION W.S.C.H.
JUVENILES INVOLVED - IS-#
JERRY [redacted]

STAFF AND CLASSIFICATION
MR. H[redacted] - TEACHER

TYPE OF REPORT
☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE
☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS
☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - School

DESCRIPTIVE STATEMENT OF ALLEGATION: Student stated that Mr. H[redacted] sat on him on school stai choked him, put knee on his chest, stuffed jacket in his mouth and threw him to floor two times in the Principal's office.

FINDINGS OF ALLEGATIONS: Student's statement supported by student witnesses: Robin [redacted], [redacted]; Julie [redacted]. Nurse's Report indicated slight bruise on chest.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr Hunts' letter to the school, dated 10-31-80.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob read me mr. [redacted] letter

☐ Resolved
☐ Not Resolved
☒ Other- School

Jerry [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Matter referred to the Superintendent.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

John [illegible] 11-17-80
☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from: W-80-68

#126

W-80-

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 6-13-80 DATE OF REPORT 6-13-80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
GEORGE [redacted]

STAFF AND CLASSIFICATION
MR. H[redacted] - TEACHER

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☒ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☐ Abuse ☐ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☒ Other - School
☐ Other	☐ Medical	
	☐ Living Conditions	
	☒ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges that Mr. B[redacted] intentionally pulled his hair after student referred to him as a woman, following gym class at swimming pool on 6-13-80.

FINDINGS OF ALLEGATIONS: Student is not aware of student witnesses; two summer school teachers present during incident, but George does not know their names.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr. H[redacted] letter to the Pryor School system, dated 6-18-80.

SIGNATURE: Gary W. Hart TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: I saw the letter to the school from Mr. H[redacted]

☐ Resolved
☐ Not Resolved
☒ Other

George M[redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Institution Superintendent referred the allegation to the Principal. Copy of report forwarded to DIS-S.O. Supervisor.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

John Leiter

☐ Resolved at Inst. Level ☐ Referred to State Office

☐ Unresolved ☒ Report Filed-No Additional Information needed

☐ Other

Attached Reports From:

#59

W-80-48

DISCS-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 6-27-80 DATE OF REPORT 6-27-80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
TAMMY [redacted]

STAFF AND CLASSIFICATION
MR. A[redacted] - TEACHER

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☒ Disciplinary Measures	☒ Other - School
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges excessive force used in corporal punishment (Paddling).

FINDINGS OF ALLEGATIONS: Bruise on right leg below hip; please refer to report by Nurse Nicholas.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr. Hunt's letter to Pryor Public School system, dated 7-7-80.

SIGNATURE: Gary W Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: BoB showed me the Response To The school

☐ Resolved
☐ Not Resolved
☒ Other

Tammy [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The Superintendent referred the matter, via memo, to the school principal. This report is being forwarded to DIS-SO Supervisor.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level	John Leitko ☒ Referred to State Office Referred to DIS-SO
☐ Unresolved	☒ Report Filed-No Additional Information needed
☐ Other	

Attached Reports from W-80-52

#61

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 4-28-80
DATE ISSUE RESOLVED
DATE OF REPORT 4-28-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
LOVENA [redacted]

STAFF AND CLASSIFICATION
MR. O[redacted] - TEACHER

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - School

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges on 4-25-80, Mr. O[redacted] purposefully grabbed her arm where she had recently had a tatoo surgically removed.

FINDINGS OF ALLEGATIONS: Clinic instructions were to avoid contact to area surrounding incision and stitches. Light bruise between incision and elbow observed by Advocate/Defender on 4-28-80; please refer to report by Clinic dated 2-28-80.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr Hunt's letter to Pryor Public School system, dated 5-7-80.

SIGNATURE: Gary w. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob Mitchell showed me a letter that Mr. Hunt sent to the school

☐ Resolved
☐ Not Resolved
☒ Other

Lovena [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Institution Superintendent referred the allegation to the Principal. Copy of report forwarded to DIS-S.O. Supervisor.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

John Lester

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

W-80-44

#55

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 4-17-80
DATE ISSUE RESOLVED

DATE OF REPORT 4-18-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION: WSCH
JUVENILES INVOLVED - IS-0
Leslee [redacted]
Marion [redacted]

STAFF AND CLASSIFICATION
MR. [redacted] H[redacted] - PRINCIPAL
MR. L[redacted] - TEACHER
PRYOR PUBLIC SCHOOL

TYPE OF REPORT

- ☐ Grievance
- ☐ Policy Violation
- ☒ Abuse ☒ Physical ☐ Verbal
- ☐ Policy Clarification
- ☐ Other

AREA OF ISSUE

- ☐ Hearings
- ☐ Detention
- ☐ Limited Privileges
- ☒ Disciplinary Measures
- ☐ Medical
- ☐ Living Conditions
- ☐ Other

FINDINGS OF ALLEGATIONS

- ☐ Substantiated
- ☐ Not Substantiated
- ☐ Unfounded
- ☒ Other- SCHOOL

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges excessive force used in corporal punishment by Mr. H[redacted] and Mr. L[redacted].

FINDINGS OF ALLEGATIONS: Nurse Scheffel indicates no bruise on Mary [redacted] on 4-18-80, although light bruise on face following incident on 4-17-80. Light bruises on both buttocks of Leslee [redacted] at time of follow-up exam at 11:00 A.M. 4-18-80, by Nurse Scheffel.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr. Hunt's letter to Dr. Burdick, Superintendent Pryor Public School System, 4-21-80.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob discussed the situation with me Leslee [redacted]

It was discussed Mary [redacted]

- ☐ Resolved
- ☐ Not Resolved
- ☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Superintendent referred matter (via letter) to the Pryor Public School system.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

- ☐ Resolved at Inst. Level
- ☐ Unresolved
- ☐ Other

- ☒ Referred to State Office
- ☒ Report Filed-No Additional Information needed

Attached Reports from:

cc: Shafer
Hunt
Mitchell

#52

W-80-42

W-81-49

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 10-19-81
DATE ISSUE RESOLVED 12-14-81

DATE OF REPORT 10-20-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH

JUVENILES INVOLVED - IS-#
James [redacted]

STAFF AND CLASSIFICATION
Mr. A[redacted] - teacher

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☒ Verbal	☐ Limited Privileges	☐ Unfounded
Policy Clarification	☒ Disciplinary Measures	☒ Other- School
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: P[redacted] submitted written statement alleging Mr. A[redacted] twisted his arm behind his back curing administering of corporal punishment.

FINDINGS OF ALLEGATIONS: No student witnesses: If allegation is supported, policy question concerns whether this type of physical interaction is appropriate as it is not consistent with Mandt principles and techniques.

ACTION TAKEN AT INSTITUTION: School was Notified by Mr. Hunt of the Problem and a reply has been received.

INSTITUTION'S RESPONSE: See attached letter from Mr. Gary Hunt to Principal Jerry Haynes

SIGNATURE: Gary W Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: [illegible]

☒ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A student reported a teacher twisted his arm behind his back during a school paddling. The matter was referred to the supt. (see attached letter from supt. to school principal).

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

W-81-49

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

#80

Attached Reports from:

cc. Shafer
Hunt
Mitchell
12-31-81

Okla. DISRS Issued 11-1-79

BICSCY-I

W-81-41

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 9-2-81 DATE OF REPORT 9-2-81
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
Darvin [redacted]
Witnesses: Tammy S[redacted]
Ophelia [redacted]

STAFF AND CLASSIFICATION
Mr. [redacted] O[redacted] - Teacher

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☒ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☒ Other _ School
☐ Other	☐ Medical	
	☐ Living Conditions	
	☒ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges Mr. O [redacted] made racial statement and threat "kick you black ass" and "sit your black ass down", as well as slapping student in face and poking with fist in the chest on 9-2-81.

FINDINGS OF ALLEGATIONS: Tammy [redacted] was the only student close enough to have heard verbal threats, which she corroborated. [redacted] both described physical interaction consistent with Darvin's statement.

ACTION TAKEN AT INSTITUTION: In reviewing the file it was found that this student grievance was filed with the former AD and no act appears to have been taken. Since the incident occurred under a former

INSTITUTION'S RESPONSE: superintendent and Advocate defender no further investigation will be conducted.

SIGNATURE: Judy Larson TITLE: Student Representative

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: For some unkown reason the above complaint was not properly referred by the previous Student Representative who has since transferred to another institution. However, since the matter involves the "school" a copy of this Grievance Form was forwarded to the recently appointed Acting Supt.

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level	☐ Referred to State Office
☐ Unresolved	☒ Report Filed-No Additional Information needed
☐ Other	

John
cc: DIS-50
Scott
Lane

Attached Reports from:

Okla. DISRS ~~Issued~~ 11-1-79 BICSCY-1

(#75)

W-81-41

W-81-44

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 10-8-81
DATE ISSUE RESOLVED ____
DATE OF REPORT 10-8-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
Kyle [redacted]
Witnesses: Teresa [redacted]
Jason [redacted]

STAFF AND CLASSIFICATION
Mr. A[redacted]- teacher
Mr. C[redacted] - teacher

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☒ Disciplinary Measures	☒ Other School
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student witnesses complained of excessive corporal punishment (seven swats) and that A[redacted] grabbed Kyle by the nedk outsient school building and took hem to class by holding neck.

FINDINGS OF ALLEGATIONS: Kyle indicated A[redacted] and C[redacted] held his arms behind his back while issuing corporal punishment; that A[redacted]n grabbed his neck and carried him back into school after Kyle ran outside class.

ACTION TAKEN AT INSTITUTION: Letter Sent by Mr. Hunt to Jerry Hayes.

INSTITUTION'S RESPONSE: See attached letter from Mr. Hunt to Jerry Hayes.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Students are no longer residents of the institution

☐ Resolved
☐ Not Resolved
☒ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A student complained excessive force was used during the administering of corporal punishment. The matter was referred to the supt. (see attached letter from the supt. to the School Principal).

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

W-81-44

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

#76

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

John Leitner
cc: DIS-50
Hunt
Larson
1-13-82

Attached Reports from:

Okla. DISRS Issued 11-1-79

BICSCY-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 9-3-81
DATE ISSUE RESOLVED

DATE OF REPORT 9-4-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-0
Reginal [redacted]
Witness: Michele [redacted]

STAFF AND CLASSIFICATION
[redacted] O[redacted] - Teacher

TYPE OF REPORT

☒ Grievance
☐ Policy Violation
☐ Abuse ☐ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - School

DESCRIPTIVE STATEMENT OF ALLEGATION: Student felt PROVOKED ~~how as [illegible]~~ by Mr. O[redacted] after Mr. O[redacted] hit him in the neck with a ball. Student carried to office by Mr. O[redacted].

FINDINGS OF ALLEGATIONS: Student witness confirmed physical inferaction of carrying Reginald to office. Stated that it appeared O[redacted] was shaking student and "getting rough with him.'

ACTION TAKEN AT INSTITUTION: In reviewing the files it was found that the student Grievance was filed with the former AD. Since the incident happened under the former superintendent

INSTITUTION'S RESPONSE and advocate defender no action is taken at this time.

SIGNATURE: Judy Larson TITLE: Student Representative

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: For some unknown reason the above complaint was not properly referred by the previous Student Representative who has since transferred to another institution. However, since the matter involves the "school", a copy of this Grievance Form was forwarded to the recently appointed Acting Supt.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

John [illegible]

Attached Reports from:

cc: DIS-50
Scott
Larson
2-8-82

Okla. DISRS Issued 11-1-79 BICSCY-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

W-81-46

DATE ISSUE REPORTED 10-13-81
DATE ISSUE RESOLVED 12-14-81

DATE OF REPORT 10-14-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH

JUVENILES INVOLVED - IS-#
David [redacted]

STAFF AND CLASSIFICATION
Mr. H[redacted] - teacher

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☒ Other - School

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - School

DESCRIPTIVE STATEMENT OF ALLEGATION: Student complained of excessive force used in corporal punishment (paddling) which left bruise on leg.

FINDINGS OF ALLEGATIONS: Please refer to report from clinic

ACTION TAKEN AT INSTITUTION: Gary Hunt referred the Matter to Jerry Haynes for investigation

INSTITUTION'S RESPONSE: Please refer to letter from Mr. Hunt to Mr. Haynes.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: I would forget the whole if he would.

☒ Resolved
☐ Not Resolved
☐ Other

David [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A student alleged excessive force was used during a school paddling. The matter was referred to the supt. (see attached letter from supt. to school principal).

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

W-81-46

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

#77

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

John Leitch
cc. Schafer
Hunt
Mitchell
12-31-81

Attached Reports from:

Okla. DISRS Issued 11-1-79 BICSCY-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 7-1-80
DATE ISSUE RESOLVED

DATE OF REPORT 7-1-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
KENNETH [redacted]

STAFF AND CLASSIFICATION
MR. L[redacted] AND MR. H[redacted], TEACHERS

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - SCHOOL

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges excessive force used by Mr. L[redacted] to hold him during administration of corporal punishment on 6-30-80.

FINDINGS OF ALLEGATIONS: Scratch marks or bruise evident on student's chest. Please refer to report by Nurse.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr. H[redacted] letter to the Pryor Public School system, dated 7-9-80.

SIGNATURE: Gregg Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob Shged me The litter mr. Hunt sint to the School

☐ Resolved
☐ Not Resolved
☒ Other

Kenneth [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The Superintendent referred the matter, via memo, to the school principal. This report is being forwarded to DIS-SO Supervisor.

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

John Leick
☒ Referred to State Office
Referred to DIS-SO
☒ Report Filed-No Additional Information needed

Attached Reports from:

#6

6-80-5X

W-80-73

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 12-12-80
DATE ISSUE RESOLVED
DATE OF REPORT 12-16-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION W.S.C.H.
JUVENILES INVOLVED - IS-#
STEVE [redacted]
WITNESSES: LISA [redacted]
STACEY [redacted]
BILL [redacted]

STAFF AND CLASSIFICATION
MR. A[redacted] - TEACHER

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☒ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☐ Living Conditions
☒ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other- School

DESCRIPTIVE STATEMENT OF ALLEGATION: Student states Mr. A[redacted] referred to him as "Hissom Reject" and provoked altercation which led to corporal punishment which involved four teachers holding Steven down while one teacher paddled him, resulting in bruises to face and sore hand.

FINDINGS OF ALLEGATIONS: Please refer to student statements and report from Nurse Nichols and YGS McClellan.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Please refer to Mr. Hunt's 12-18-80 memo to Pryor Public School system.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: BoB said me Mr hunt letter to the School

☐ Resolved
☐ Not Resolved
☒ Other School

Steve [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Matter referred to the Superintendent.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

John Leitka
☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

W-80-73

Okla. DISRS Issued 11-1-79

BICSCY-1

WHITAKER STATE CHILDREN'S HOME
Box 98, Pryor, Oklahoma 74361
December 18, 1980

Mr. Jerry Haynes, Principal
Whitaker School
Pryor, Oklahoma

Re: [redacted] Steve [redacted]

Dear Mr. Haynes:

Attached is a grievance reported by Steve [redacted] concerning an alleged physical, verbal abusive incident involving Mr. A[redacted] and other male teachers. This incident is alleged to have happened on 12-12-80 and was subsequently reported to the Advocate Defender's office immediately by the houseparent in the cottage in which Steve lives, the clinic, and Steve.

In reading the statements of Steve, as well as witnesses, it would appear that once again Mr. A[redacted] may be verbally labeling students with degrading titles as has been documented before. You have assured me your conversations with Mr. A[redacted] would alleviate this condition. If your investigation into this incident supports Steve and the witnesses, I would assume additional action upon your recommendation for Mr. A[redacted] as opposed to the past counseling with him concerning his actions.

Mr. A[redacted] has had several grievances in which his verbal down-grading of students has been documented and I do not feel students should be subjected to this type of verbal insult and harrassment. I would sincerely appreciate your attention to this situation at your earliest possible convenience and a report of your findings.

Sincerely,

Gary W. Hunt
Superintendent

GWH:ph

cc: Advocate Defender ✓

B. RESPONSIBLE DEPARTMENTAL OFFICIALS TOLERATED STAFF MISCONDUCT

Despite the large numbers of abuse reports, the Subcommittee believes that many Departmental officials nonetheless are committed to providing the best available care and counseling to the troubled youth they serve. Unfortunately, these same individuals who would not personally physically or verbally mistreat a juvenile nevertheless operated a system that permitted abusive employees to retain their positions and also stymied attempts to terminate such employees.

The Subcommittee's review of the abuse reports revealed that a number of the same employees were repeatedly reported for abusive behavior.

EXAMPLE I

Two of the individuals who figured prominently in the testimony before the Subcommittee were Mr. B and Mr. C—employees at Whitaker.[1] Briefly, the official DHS reports [2] on Mr. B and Mr. C recount the following incidents:

June 15, 1978

A juvenile's arm was broken while Mr. C, Mr. B and two others were escorting him to the Separation Cottage. Specifically, Mr. B and another employee grabbed the juvenile's leg, another grabbed his waist and Mr. C controlled his arms with a "full Nelson" hold.

The Superintendent's conclusion was that there was "no one person or persons that should be held accountable for this fracture."

September 20, 1978

Juvenile alleged that Mr. C applied a "full Nelson" hold, threw him in an excessively hot shower, kneed him and verbally abused him. The juvenile also alleged mistreatment by two other employees (the only other witnesses). All involved denied wrongdoing. The superintendent found that the witness statements "seemed adequate" but acknowledged it was likely that Mr. C did make derogatory comments.

February 26, 1979

Two juveniles, one a nine-year-old, alleged that Mr. C had been physically abusive. The superintendent noted:

"Mr. C does have a reputation (long standing) for rough physical treatment of students. In both of the above allegations, I do not feel I have sufficient documentation or evidence to recommend any disciplinary action. In view of the number of allegations of mistreatment of students, I would recommend that if any further grievances are registered that Mr. C meet with the Disciplinary Review Committee in the State office. I am not so sure that he hasn't already met the criteria for this recommendation."

November 29, 1979

Juvenile alleged that Mr. C used unnecessary force in carrying him by the neck from a regular cottage to the crisis intervention cottage.

December 10, 1979

Juvenile alleged that Mr. C threw a flashlight at him while trying to catch him in an AWOL attempt.

May 2, 1980

Juvenile alleged excessive force used in putting him in restraints.

October 1, 1980

Juvenile alleged that Mr. B physically abused him. Staff witness, Mr. W, reported that "Mr. B without provocation grabbed (the student) by the lower jaw, bounced his head against the pillow and the headboard of the bed while holding onto his hair, twisted his arm until Mr. W thought it might break, cursed the student and was responsible for the appearance of some blood on the student's mouth."

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[1] It is important to note that *no* delinquent youth are assigned to Whitaker. The Subcommittee understands from the testimony at the hearings that Mr. C was allowed to resign from Whitaker earlier this year, and that Mr. B was finally terminated.

[2] The actual reports are reproduced following this summary.

Mr. B received a written reprimand.

March 13, 1981

Mr. B and Mr. C escorted a juvenile to the separation cottage after he had refused an order to go to bed. While Mr. C grabbed the juvenile around the neck, Mr. B twisted his arm behind his back. Once at the separation cottage, the juvenile complained of pain in his arm. The next day, the arm, was x-rayed. According to the report of the Deputy Superintendent the x-rays "indicated that he had suffered a fracture below the socket of his right arm."

Mr. B and Mr. C denied any inappropriate action. The investigator recommended that Mr. B, Mr. C and the juvenile be given polygraphs.

The juveniles readily agreed, Mr. B agreed only if all others cooperated, and Mr. C refused.

October 9, 1981

Juveniles alleged that Mr. B threatened to hit them with a flashlight.

January 29, 1981

Juvenile alleged that Mr. B threatened her.

October 30, 1981

Two juveniles alleged Mr. C twisted arms, applied headlock and verbally abused them.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

W- 10 1

W - 78-1

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: June 15, 1978

From: R. Chase Gordon, Coordinator
Bureau of Institutions and Community
Services to Children and Youth

Attention:

Subject: [redacted] Eugene - [redacted]
Injury Report

In Reply - Address to
Attention: ______________________

An investigation was made regarding an injury of a Whitaker student.

Four employees attempted to place Eugene [redacted], a student in the institution's Separation Unit, a struggle occurred which resulted in Eugene's arm being broken.

The four employees were interviewed and all stated the student refused and physically resisted being placed in the Separation Unit. Each employee felt unnecessary or excessive force was not used during the incident.

There were two students who witnessed the incident and both indicated that Eugene began struggling without provocation. One student reportedly saw Eugene strike his arm on a metal door frame during the struggle and heard a "cracking" sound.

Based on available information, it doesn't appear that excessive or unnecessary force was used and the student's arm was broken accidently. Therefore, disciplinary action involving the employees is not being recommended.

Attached are reports from Mr. Hunt, Superintendent, four institutional employees, and Mr. Leitka, Assistant to Coordinator.

RCG:jr

Attachments

cc: BISCY
Hunt
Lewis

R. Chase Gordon, Coordinator
Bureau of Institutions and Community
Services to Children and Youth

#1

W-78-1

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: June 9, 1978

From: John Leitka, Assistant Coordinator
Bureau of Services to Children & Youth

Attention: Chase Gordon
Deputy General Counsel

Subject: [redacted], Eugene - IS-W 2933
Injury Report

In Reply - Address to
Attention: ______________________

Eugene [redacted], Whitaker student, was interviewed on June 7, 1978, at St. Francis Hospital, Tulsa, Oklahoma, in regard to an arm injury sustained at the institution.

Eugene reported that the incident began with his refusal to move a press (moving clothing from closet) as requested by Mrs. S[redacted] and Mr. T[redacted], Elm Cottage houseparents. The refusal resulted in the arrival of several employees for the purpose of taking him to the separation unit. The employees were identified as Mr. W[redacted], Program Supervisor, Mr. B[redacted], Nightwatchman, Mr. C[redacted], Nightwatchman, and Mr. T[redacted], Houseparent. Upon being informed that he was being taken to separation unit, they proceeded downstairs without incident. According to Eugene when they arrived downstairs he asked Mr. W[redacted] for an opportunity to give his "side of the story", but was told to "keep moving". When he insisted on giving an explanation, the group of employees all grabbed him at which point a struggle occurred which resulted in his arm being broken. Apparently Mr. W[redacted] and Mr. B[redacted] grabbed hold of his legs, Mr. T[redacted] and hold of his waist, and Mr. C[redacted] put Eugene's arm behind his back and hit it with his fist. It was at this time a "pop" was heard. Eugene stated that although the employees were aware that his arm had been injured, they continued to carry him physically to the separation unit.

Eugene stated that there were no other witnesses other than the four employees.

Mr. [redacted] W[redacted], Institutional Program Supervisor, was interviewed on June 7, 1978, at Whitaker in regard to the incident. At approximately 9:00 pm a call from Mrs. Sharp or Mr. [redacted] T[redacted], houseparents, was received to report that Eugene was refusing to remove clothing from the press. Because of the previous negative experiences with Eugene, it was felt that several employees might be needed to assist. Approximately thrity minutes lapsed before responding to the houseparents' call in order for two nightwatchmen to come on duty. Mr. [redacted] B[redacted] and Mr. [redacted] C[redacted], nightwatchmen, accompanied Mr. W[redacted] to the cottage. Upon arriving at the cottage upstairs living area, he informed Eugene that "he was going to separation". According to Mr. W[redacted] he began walking downstairs without any problems until they reached the downstairs hallway, the student stopped and "doubled up his fists and began in an upward motion with his arm", W[redacted] reacted by grabbing his arm and the struggle started. The other three employees grabbed different parts of Eugene's body in attempting to subdue him. During the struggle he thought he heard something "pop" where upon they immediately put him down. Mr. W[redacted] noticed that Eugene was in considerable pain in the arm area, so upon arriving at the separation unit he immediately called for medical attention.

To the best of his knowledge there were no other witnesses other than the employees involved.

Mr. [redacted] T[redacted], houseparent, reported that Mrs. Sharp, the other Elm Cottage houseparent requested assistance in making Eugene change his press. When the student refused to change the press, he called Mr. W[redacted] for disciplinary action to be taken. When the Program Supervisor and the two nightwatchmen arrived, Eugene wanted to know why he was being taken to the separation unit. There were no problems until they reached downstairs when Eugene sudenly began swinging his arms above his shoulders. All four of the employees attempted to subdue him. Mr. T[redacted] stated that he grabbed Eugen's feet as he was kicking and he thought Mr. C[redacted] had a "full nelson" and was unsure of what Mr. B[redacted] and Mr. W[redacted] position were. They "let him down" approximately fifty feet from the cottage when Eugene began complaining about hurting his shoulder.

Mr. T[redacted] felt that unnecessary or excessive force was not used by any of those involved. He was not sure but he thought James [redacted] and Randy [redacted], students may have witnessed the incident.

Mr [redacted] B[redacted], nightwatchman, received a call from Mr. W[redacted] approximately 9;15 pm regarding trouble they were having with Eugene [redacted]. They waited for approximately fifteen minutes for Mr. C[redacted], nightwatchman, to come on duty. Mr. B[redacted] stated that he accompanied Mr. W[redacted] and Mr. C[redacted] to the cottage to place Eugene in separation. Eugene did not resist until they reached downstairs in the hallway when he began cursing and swinging his arms. Mr. B[redacted] stated that he grabbed Eugene's left wrist and all were struggling with him and heard Mr. C[redacted] say that "he had him" inferring that he had physical control. It was at this time he heard something "pop like a pencil" and Eugene immediately ceased to struggle. Mr. B[redacted] stated that Eugene began complaining about being in pain in his arm. The nightwatchman thought that a shoulder separation had occurred. Mr. B[redacted] felt that no excessive force had been used in the entire incident. Mr. B[redacted] thought there might be two students who may have witnessed the incident, but had no idea who they were.

Mr. [redacted] C[redacted], nightwatchman, received a call from Mr. W[redacted] to assist in placing a student in separation. The nightwatchman stated that Eugene walked downstairs without any problems until he reached the downstairs hallway when he began swinging his arms. Mr. C[redacted] reported using a "full nelson" to subdue Eugene and gave a lengthy explanation of the purposefulness of using the full nelson in subduing out of control individuals. Mr. C[redacted] reported that Mr. B. [redacted] and Mr. W. [redacted] had Eugene by the arms and Mr. T[redacted] had him by the feet. It was during this time when he heard a crack and thought a shoulder separation had occurred because of the struggling while he had a full nelson on Eugene. Upon being asked, he denied placing Eugene's arm behind his back.

The nightwatchman thought that there were no other witnesses other than the employees involved.

Randy [redacted], student, reported being downstairs doing laundry with another student, James [redacted], when he saw Eugene being walked through the hallway with his right arm being held behind him. Suddenly Eugene began swinging his arms and began struggling with the employees. Randy could not understand why Eugene began cursin and swinging his arms as there did not seem to be any unusual action on the employ part. During the struggle the whole group moved further down the hallway beyond his visibility, but thought James [redacted] another student, had witnessed the whole incident as he went into the hallway to watch.

James [redacted], student, said he saw Eugene and the four employees walking down the hallway. The student said that Eugene was "walking along peacefully until he saw us and then tried to show off", he began cursing and swinging his arms. The struggle continued and moved down the hallway to near the entrance of the cottage, at which point "Eugene swung his arm up and hit it on the metal part of the door frame" which resulted in a "pop that sounded like a hard clap of the hands". James stated that "Eugene really gave them a cursing, calling them m.f.'s and s.o.b.'s, really gave it to them". **He also observed Mr. C[redacted] holding Eugene's right arm behind his back during the struggle.**

Mr. Gary Hunt, Superintendent at Whitaker, reported that the official diagnosis from the doctor was a spiral fracture of the left humerius. The superintendent reported that the break was approximately three inches above the elbow.

Also attached are written reports from Mr. Hunt and the four employees who were involved in the incident.

JL:jr

Attachment
Shifey
Hunt
Lewis

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: June 7, 1978

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: R. Chase Gordon, Deputy General Counse
Institutional Services

Subject: [redacted], Eugene [redacted]

In Reply - Address to
Attention: ____________________

On the evening of 6-6-78 at approximately 9:45 P.M., I received a telephone call from Mr. W[redacted] indicating that he thought Eugene [redacted] shoulder was fractured and that he was taking him to the hospital. I asked Mr. W[redacted] how the incident happened, he indicated that Eugene was in the process of fighting him, Mr. B[redacted], and Mr. C[redacted]. I told Mr. W[redacted] that I would meet him at the emergency room.

Upon arrival at the hospital, I asked Mr. W[redacted] as to what had happened. He indicated that it was necessary for Eugene to be taken to the separation unit and Eugene was not wanting to go. Rather than fight with Eugene himself and with Mr. B[redacted], Mr. C[redacted] had been requested to also come to the cottage. Mr. W[redacted] indicated hopefully this show of manpower would curtail any physical acting out on Eugene's part. It should be noted at this point that Eugene has recently had several serious outbursts that required physical control by staff members.

It was determined that Eugene's arm was fractured above the elbow but not in the shoulder as originally suspected. He was taken to St. Francis Hospital in Tulsa to have the arm set and was admitted to that hospital overnight and remains there at the present time.

Upon arriving back on campus, I asked Mr. B[redacted], Mr. W. [redacted], and Mr. C[redacted] to go to Elm Cottage where Mr. T[redacted], Houseparent I, was on duty and was a witness to the incident. Attached are statements from all four employees as to their impression of what took place. After reviewing these statements, they all seem to be pretty much consistent in content and it is felt there was no one person or persons that should be held as accountable for this fracture. I did talk with Eugene and Eugene's story was different in that he said Mr. C[redacted] is the one who broke his arm because he remembered everybody else was in front of him either holding his legs or his body. After examing the statements and interviewing each of these employees separately, I cannot determine that undue force or any injurious attempts were made on Eugene.

I feel this is an extremely unfortunate situation. Each of the employees involved is extremely upset and concerned for Eugene in this incident. I feel there is no indication that disciplinary action of an employee is indicated and I am submitting this information for your clarification.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph
Attachments 4

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: December 6, 1978

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: COMPLAINT OF TONY [redacted]
[redacted]
FOR INFORMATION ONLY

In Reply - Address to
Attention: ____________________

On September 20, 1978, Tony [redacted] complained about being abused at Whitaker State Home by several employees while they were attempting to place Tony in the Separation Cottage. This incident has been looked into by Superintendent Hunt, Security Office Prather, and Advocate-Defender Lewis. All report that, based on interviews with the various parties and on the written reports, there is no basis for Tony's complaints.

Mr. W[redacted] acknowledged taking Tony to Separation by twisting his arm behind his back, but he denies using excessive force in doing so. He also denies bending Tony's finger. Mrs. B[redacted] denied that Tony had been put into an excessively hot shower, stating that she herself adjusted the water temperature. Mr. C[redacted] admits using a "nelson hold" to get Tony undressed and put him in the shower, but he denies using excessive force or pulling Tony's hair. It is agreed that Tony got shampoo in his eyes as he was struggling with Mr. C[redacted]. Mr. C[redacted] and Mrs. B[redacted] deny that Tony was kicked or kneed. While none of the reports concern Mr. C[redacted] verbal abuse, Mr. Hunt stated that he would not be surprised if Mr. C[redacted] made remarks of that type.

It is noted that while Mrs. B[redacted] told Mr. Lewis that she adjusted the water temperature, Mr. Prather says that Mrs. B[redacted] told him that Mr. C[redacted] adjusted the temperature. Tony [redacted] also said that Mr. C[redacted] adjusted the temperature.

All reporting parties agree that Tony was out of control at the time of the incident.

Although denying the excessive use of force in this particular case, Whitaker's policies regarding searches, showers, and shampoos have been revised since this incident, so that this is now done more selectively, that is, showers and shampoos are not done except in case of obvious need; otherwise, the students shower on a regular time schedule with other students. This change should reduce the possibility of friction between staff and students during the admission process in the Separation Cottage.

#8

Lacking definite information of Tony's allegations, no further action is recommended at this time.

JLJ:JB:jr

John Leitka Jr.

W-78-24

cc: Shafer
Supt.
[illegible] Lewis

✓ John Leitka
Adv. Gen.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: October 6, 1978

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: R. Chase Gordon, Deputy General Couns

Subject: Tony [redacted] 3312

In Reply - Address to Attention: ______________________

Attached you will find a copy of the investigation conducted by Mr. John Prather, Security Officer at Whitaker. His investigation is in reference to the allegations which Tony [redacted] made to Mr. Bascom Lewis on approximately 9-21-78.

After examining Tony's statement in relation to what allegedly happened to him at the point he was taken from the cottage and placed in the Separation Unit; I find no violations in regard to Mr. W[redacted]. Primarily, the accusations were aimed at Mr. C[redacted] whom Tony has had several problems with in the past. It should be pointed out that Tony has had physical problems with a large majority of administrators and supervisors on duty.

The witnesses' statements by Mr. W[redacted], Mrs. B[redacted] and Mrs. Maslen seem to be adequate in their explanation as to how they saw the incident taking place in the Separation Unit. The only item that was not covered in the witnesses' statements was Mr. C[redacted] alleged conversation with Tony about the welfare statement regarding his mother, the derogatory comment about being a "honky" and they heard no reference when Tony said his father was of Mexican decent. I would not be surprised if Mr. C[redacted] hadn't referred in a statement about welfare payments or families receiving assistance. However, in this particular incident, the witnesses do not substantiate the allegations. The witnesses statements, I feel, are an accurate reflection of what they heard and what they saw; therefore, I am not making any recommendation for disciplinary action.

Gary W. Hunt, Superintendent

GWH:ph
Attachments
cc: ✓John Leitka, Advocate General
David Shafer, Institutional Services
Bascom Lewis, Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

Chase

To: L. E. Rader, Director Institutions, Social and Rehabilitative Services
Date: November 28, 1978

From: Bascom Lewis, Advocate Defender, Whitaker State Childrens' Home
Attention: Chase Gordon, Coordinator, BICSCY

Subject: TONY [redacted]
Special Atten: John Lietka
In Reply - Address to Attention:

Tony originally complained to me that he was mistreated during his placement in the Separation Cottage on September 20, 1978. He made this complaint on the morning of September 20, 1978, as I was visiting him in the Separation Cottage. Later that day he came to my office and gave me a statement alleging several forms of mistreatment as he was being taken to the Separation Cottage, as well as after his placement there. This statement, which Tony signed, was immediately given to Mr. Hunt. He responded by assigning the Security Officer for Whitaker, Mr. John Prather, to investigate the circumstances.

The result of the investigation was submitted to the State Office by Mr. Hunt, attached to a cover memorandum dated October 6, 1978, subject matter being Tony [redacted].

The purpose of this memorandum is to provide supplemental information as requested by Mr. Lietka. Mr. Lietka's first inquiry was to discover if Mr. W[redacted] had been asked if he did hold Tony's arm behind his back, on the way to Separation and if he did bend Tony's finger back. When asked these questions, Mr. W[redacted] response was that he did feel it necessary to hold Tony's arm behind his back, however, he did not bend his middle or any other finger back. The second question was regarding Tony's allegation that he was thrown into a hot shower. The staff member present, aside from Mr. C[redacted], was Mrs. B[redacted]. Her response to my question was that she adjusted the shower herself and Tony was placed in the stall after the water was at a comfortable temperature. The third question was to learn if the full Nelson hold was used excessively in order to contain Tony's acting out behavior. Mrs. B[redacted] also answered this question. She stated that Mr. C[redacted] did not,, to her knowledge, bend Tony over with a full Nelson, to the point that his head was between his knees. The fourth question regarded Tony's allegation that he was kicked on a boil on his buttocks and kneed in the genitals. Mrs. B[redacted] responded to this question by saying that she was with Tony during the time that Tony claimed this happened. She stated that Tony fell on the boil, while in the shower and that he was not kicked at any time. The fifth question concerned Tony's allegation that he was treated roughly while in the shower and that his hair was pulled, as it was being shampooed. Mrs. B[redacted] also answered this question, indicating that she and Mr. C[redacted] shampooed Tony's hair and that shampoo did get in his eyes, because he was being resistive to having his hair shampooed. She stated that they were being as careful with Tony as possible and that the shampoo got into his eyes was accidental and that his hair was not pulled at any time.

Bascom Lewis
BASCOM LEWIS, ADVOCATE DEFENDER

JBL:pm
cc:Mr. Gary W. Hunt
JBL File

John Leitka

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: February 26, 1979

From: Gary W. Hunt, Superintendent Whitaker State Children's Home

Attention: David Shafer, Supervisor Institutional Services

Subject: Donald D[redacted]
Donald M[redacted]

In Reply - Address to Attention: ____________________

Attached are two allegations of mistreatment against Mr. C [redacted] in regard to Donald D[redacted] and Donald M[redacted]. I am combining these two allegations since essentially the same recommendation is reached on both.

In regard to the allegation of mistreatment of Donald D[redacted], since Mr. Larry Staton, Deputy Superintendent, attended all interviews along with the advocate defender, there is no attached investigative report. After talking with Mr. Staton and reviewing the YGS's observation, I feel that it is questionably if any mistreatment occurred. It should be pointed out that there were several students who said they observed the allegation. Randy Davis, is seen as a reliable witness. There exists a high degree of question in why Mr. C[redacted] did commit the allegation as described when he had Donald controlled in a "basket hold" as he was leaving the office. Logically, he had Donald in control and was leaving the cottage. There was not a YGS statement which even alluded to possible mistreatment. I question as to whether it was convenient for them not to observe this allegation.

The allegation of mistreatment against Donald M[redacted] is seen much in the same light. There were no witnesses which corroborated Donald's story and houseparents again were in a position to observe any mistreatment. Donald M[redacted] is nine years old, small, and not a physical threat to a grown man. I, personally, have handled Donald when it was necessary to remove him from the cottage and did not find his aggressive action as threatening to my personal well-being.

On February 21, I held a lengthy discussion with Mr. C[redacted] in regard to the allegation of mistreatment against Donald D[redacted]. After going through this alleged incident, Mr. C[redacted] emphatically denied that he choked Donald D[redacted]. My emphasis was on the number of allegations that had come up against him in regard to his handling children. He has been instructed that if it is necessary to physically handle a student that a staff person is available. I feel there have been some references to Mr. C[redacted] which are not accurate, are gossip and are damaging; however, Mr. C[redacted] does have a reputation (long standing) of rough physical treatment of students. In both of the above allegations, I do not feel I have sufficient documentation or evidence to recommend any disciplinary action. In view of the number of allegations of mistreatment of students, I would recommend that if any further grievances are registered that Mr. C[redacted] meet with the Disciplinary Review Committee in the State office. I am not so sure that he already hasn't met the criteria for this recommendation.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph
cc: Advocate General
Advocate Defender
Attachments

ADVOCATE GENERAL'S REPORT

TO

BICSCY COORDINATOR

W-79-65

INSTITUTION Whitaker

November 29, 1979

JUVENILES INVOLVED - IS-#

Paul [redacted]8

STAFF INVOLVED-CLASSIFICATIC

[redacted] Mr. C[redacted]-Watchman

NATURE OF COMPLAINT OR REPORT

☒ ABUSE ☐ POLICY ☐ OTHER

Physical
Verbal

Hearings
Detention
Limited Privileges

Disciplinary Measures
Medical
Living Conditions

BRIEF STATEMENT: A juvenile alleged he was physically abused when an employee carried him by the neck from a regular cottage to the crisis intervention cottage.

FINDINGS OF ALLEGATIONS ☐ Substantiated ☒ Not Substantiated ☐ Unfoun

COMMENT: Two employees and three juveniles reported observing Mr. C[redacted] applied a headlock on the juvenile while taking him to the crisis intervention cottage. Incident report indicated the juvenile having difficulties on the cottage and physically resisted being removed from the building.

ACTION TAKEN OR RECOMMENDED None needed

ATTACHED REPORTS FROM: Lewis-AD
Incident reports from Inst.

JLJ:j
CC: Shafer
Lewis
Hunt

#26

W-79-65

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

L. E. Rader, Director, Institutions, Social and Rehabilitative Services.
Date: September 28, 1979

From: Larry D. Staton, Deputy Superintendent, Whitaker State Children's Home
Attention: Dave Shafer, Supervisor, Div. of Institutional Services

Subject: STUDENT GRIEVANCE -PAUL [redacted], RE: [redacted], WATCHMAN.
In Reply - Address to Attention: ____________

On Sunday, September 23, 1979, Paul [redacted]r, student, reported to Mr. Gary Hunt that excessive force was used in taking him to Crisis Intervention unit. Mr. Hunt asked that I look into this situation, since he had to be absent from the institution.

Upon investigation I talked with Mr. Quinton Noe, YGS, who was present, Mrs. Doran, Supervisor on Duty and Mr. [redacted] C[redacted]. I was unable to talk with Paul due to the fact that he went AWOL before I had an opportunity to interview him.

In talking with the staff present and involved, it appears that Mr. C[redacted]r at no time used excessive force in taking Paul to Crisis Intervention. See reports of the incident attached.

Based upon this information, I recommend that no further action be taken, in that I feel Mr. C[redacted] was well within policy in handling this situation.

Larry D Staton
LARRY D. STATON, DEPUTY SUPERINTENDENT

LDS:pm
cc:Mr. Gary W. Hunt
Advocate General
Advocate Defender - WSCH

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services.

Date: October 11, 1979

From: Bascom Lewis, Advocate Defender
Whitaker State Children's Home

Attention: Chase Gordon, Coordinator
BICSCY

Special Atten: John Leitka

Subject: STUDENT'S ALLEGATION OF MISTREATMENT RECEIVED FROM NIGHTWATCHMAN; [redacted]

In Reply - Address to
Attention: ______________________

Mr. Hunt indicated that a student, Paul S[redacted] had complaints about the manner in which he was treated by a night watchman while being taken from his own cottage to crisis intervention. At the time this information was made available, Paul was AWOL status and did not return until 9-30-79. He was interviewed on 10-3-79 in regard to the incident. It was his statement, basically, that Mr. C[redacted] carried him by his neck from the porch of his cottage, Cedar, to the corner of the crisis intervention cottage. Paul also listed during the interview, that there were two juvenile students who were witnesses and could substantiate his statement about his being carried by the neck. Their names Eugene [redacted] and John [redacted].

When John [redacted] was interviewed, he indicated that Mr. C[redacted] placed Paul in a head-lock and transported him between cottages in that fashion, with Paul stumbling on the way because of his efforts to get away from Mr. C[redacted]. He also mentioned, during the interview, that another student, Dawayne [redacted], was also a witness to the incident.

Dawayne was interviewed and gave the statement that Mr. C[redacted] had placed Paul in a head-lock and that he did not see anything unusual in the manner of moving him from cottage to crisis intervention.

Eugene [redacted]was interviewed and stated that he saw a struggle between Mr. C[redacted] and Paul, but did not see him being carried by the neck.

Mr. Hunt had asked for written reports from the staff members involved in the circumstances and copies of these reports are attached. Mrs. Doran was again interviewed by the advocate defender in regard to the specific allegation of Paul's, that he was carried by the neck. She indicated that she walked behind Mr. C[redacted] and Paul as they were going to crisis intervention and was certain that Paul was not carried in the way that he described.

Based upon the information obtained from the staff reports and interviews and the student interviews, it appears that there was a struggle between Mr. C[redacted] and Paul prior to his being taken to crisis intervention. This information, however, does not establish that Paul was abused in any manner. For this reason, the incident does not seem to require further action. If more information is necessary, please advise.

Bascom Lewis
BASCOM LEWIS, ADVOCATE DEFENDER

JBL:pm

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

W-79-

DATE ISSUE REPORTED 10-22-79
DATE ISSUE RESOLVED

DATE OF REPORT 12-10-79

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-# 3459
LEON [redacted]

STAFF AND CLASSIFICATION
[redacted] C[redacted], Night Watchman

TYPE OF REPORT

☐ Grievance

☐ Policy Violation

☒ Abuse ☒ Physical ☐ Verbal

☐ Policy Clarification

☐ Other

AREA OF ISSUE

☐ Hearings

☐ Detention

☐ Limited Privileges

☐ Disciplinary Measures

☐ Medical

☐ Living Conditions

☒ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated

☐ Not Substantiated

☐ Unfounded

☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Leon alleges that Mr. C[redacted] threw a flashlight at him while trying to catch him during an AWOL attempt. Further, that the light hit by his foot, burst apart and a battery struck his elbow.

FINDINGS OF ALLEGATIONS: Three juveniles from other cottages gave statements individually that they saw Mr. C[redacted] intentionally throw the flashlight at Leon. These statements varied in describing how Leon was hit.

ACTION TAKEN AT INSTITUTION: Investigated by Mr. Staton in Mr. Hunt's absence. He determined from Mr. C[redacted]'s written statement that Mr. C[redacted] lost his balance and the flashlight flew out of his hand unintentionally.

INSTITUTION'S RESPONSE:
SEE ATTACHED REPORT

SIGNATURE: TITLE:

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☒ Not Resolved
☐ Other

Leon
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: After discussing the above with DIS (Shafer and Kennedy), it is being recommended the report be placed in the employee's institutional personnel file for future reference. It was felt the employee did not intend to hit the juvenile.

John Leitch

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level

☐ Unresolved

☐ Other

☒ Referred to State Office

☒ Report Filed-No Additional Information needed

CC: Shafer
Hunt
Nikkila

Attached Reports from:

Okla. DISRS Issued 1-1-79 BICSCY-1

#32

W-79-81

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services.
Date: November 15, 1979

From: Larry D. Staton, Deputy Superintendent Whitaker State Children's Home
Attention: Dave Shafer, Supervisor, Division of Institutions

Subject: ALLEGATIONS OF LEON [redacted], STUDENT, OF ABUSE BY [redacted], NIGHT WATCHMAN.
In Reply - Address to Attention:

This investigation was conducted in the absence of the Superintendent. Therefore, I am submitting this report .

On 10-18-79, Leon [redacted] and Larry [redacted] were restricted from recreation, however both boys left the cottage without permission and went to the Canteen. The YGS called me. I went to the Canteen and asked both boys to go back to the cottage. The boys refused and became very verbally agressive to me. I phoned for assistance and while I was on the phone, the boys went out the window. Both boys were running from building to building, not making an attempt to leave campus, but generally harrassing the staff, who were trying to get them back to the cottage.

At the time that Leon alleges that Mr. [redacted] threw his flashlight at him, Leon was running between the school buildings. Mr. [redacted] was behind him and both were running. Mr. [redacted] stated that he stepped in a low place and lost his balance and that when he was trying to catch his balance to keep from falling, the flashlight flew out of his hand in the direction of Leon. Mr. [redacted] stated that it was an accident and that he did not intentionally throw the flashlight. Shortly after this incident, Leon was caught by two other staff people and had to be physically restrained and taken to Central Cottage for crisis intervention.

It is my feeling that Mr. [redacted] did not intentionally throw the flashlight and I feel that the matter has been resolved and there is no need for any further action in this matter.

Larry D. Staton
LARRY D. STATON, DEPUTY SUPERINTENDENT

LDS:pm
cc: John Leitka

Attachments

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 4-29-80 DATE OF REPORT 5-2-80
DATE ISSUE RESOLVED 5-27-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
STEPHANIE [redacted]

STAFF AND CLASSIFICATION
Mr [redacted] W[redacted], ADM. ASSISTANT; Ms. [redacted] M[redacted],
YGS; MR. C[redacted], SECURITY

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☒ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☒ Disciplinary Measures	☐ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Stephanie alleges exessive force used in application of restraints and did not feel that restraints should have been used.

FINDINGS OF ALLEGATIONS: Through verbal discussion and written statement, Stephanie questioned whether restraints could be used on her. Her statements indicate that force was used to control the situation in which she was fighting and kicking and cursing.

ACTION TAKEN AT INSTITUTION: Please refer to Mr. W[redacted]'s memo of 4-28-80.

INSTITUTION'S RESPONSE: Please refer to Mr. Hunt's memo dated May 27, 1980.

SIGNATURE: George W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: well Restraints are ok if a Child is out of Control like I was But What I think is that when a Child is in Restraints the Shouldn't Pick them up Because they Could Break Sombody arms or legs.

☒ Resolved
☐ Not Resolved
☐ Other

Stephanie [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: No action was recommended as the Institution reported and the juvenile acknowledged being out of control.

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

John Leitka

☒ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

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* In reference to juvenile's response, child stated to advocate/defender that the issue of picking her up in restraints referred to Mr. W[redacted]s attempt to turn her over to prevent her from kicking staff members.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: File

Date: December 3, 1980

From: David Shafer, Supervisor
Division of Institutions

Attention:

Subject: Mr [redacted] B[redacted], Night Watchman
Paul [redacted], Student
Whitaker State Children's Home

In Reply - Address to
Attention: ______________________

Based on a detailed investigation conducted by staff of the Inspector General's office, in regard to the Paul [redacted] incident the following recommendations are made:

1. An official reprimand (verbal) be issued by the institutional superintendent to Mr. B[redacted].
2. That a copy of this memo be made a part of Mr. B[redacted] personnel file.
3. That Mr. B[redacted] be informed that his behavior in this incident has been deemed inappropriate and that in the future his actions on the job will be monitored and if a pattern of the above nature is established, further disciplinary action will be considered.

David Shafer, Supervisor
Division of Institutions

DS:JC:cb

cc: Gary Hunt
[redacted]
John Leitka
Institutional Personnel File
S.O. Incident File

John Leitka

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: October 3, 1980

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David A. Shafer, Supervisor
Div. of Institutional Services

Subject: [redacted] B[redacted] - Night Watchman

In Reply - Address to
Attention: ______________________

On 10-1-80 at approximately 10:00 A.M., Mr. Bob Mitchell the Advocate Defender notified me of an incident concerning Mr. [redacted] B[redacted], night watchman, and Paul [redacted], student from Cedar Cottage. This incident was to have occurred in Central Cottage at approximately 10:30 P.M. on 9-27-80. Mr. Mitchell indicated he had just talked with Paul and learned of the incident. Before Mr. Mitchell was able to contact the Superintendent, he contacted Mr. Pete White, whom Paul described as being a witness during the incident. Mr. White's statement to the Advocate Defender supported Paul's explanation of the incident and even exceeded the statements Paul had given concerning the excessive physical involvement toward Paul from Mr. B[redacted].

Upon hearing the information from Mr. Mitchell, I asked to see Pete White, who once again went through the accounting of the incident he observed in Central Cottage on 9-27-80. Mr. White indicated as by his attached statement, that Mr. B[redacted] without provocation grabbed Paul by the lower jaw, bounced his head against the pillow and the headboard of the bed while holding onto his hair, twisted his arm until Mr. White thought it might break, cursed Paul and was responsible for the appearance of some blood on Paul's mouth. Mr. White also indicated Mrs. [redacted] [redacted] and Mrs. [redacted], YGS were on duty in the unit in Central Cottage at the time the incident occurred. Mr. White further stated that on the morning of 9-28-80, he felt such a concern over what he had seen, he notified his supervisor, Mr. Bascom Lewis, who was also the Administrator on Duty for the weekend of 9-26-80 through 9-28-80 Mr White told Mr. Lewis he felt Paul was going to see the Advocate Defender and what should he say. According to Mr. White, Mr. Lewis told him in the event he was asked any questions concerning the incident, to tell the truth. At this point and time, I notified Mr. David Shafer, Division Supervisor of Institutional Services of the possibility of a serious incident which had been unreported in excess of 72 hours. Further, I informed Mr. Shafer that Mr. Al Pennolla of the Inspector General's office was on campus on a matter totally unrelated to any Whitaker problems but that I felt the incident was serious enough the Inspector General's office should be included. Mr. Shafer was in agreement and indicated he would contact Mr. Wesley Rucker's office for the referral. Concluding my conversation with Mr. Shafer, I contacted Mr. Bascom Lewis who was on annual leave for vacation purposes for the next two weeks. He indicated that Mr. White had contacted him on Sunday morning (9-28-80) and had discussed the matter fully with him. I asked Mr. Lewis if he felt that the information that he had received from Mr. White was serious enough for a referral to an administrator's attention. He indicated that he felt it was but due to the extremely busy schedule of 9-28-80, he forgot. I can assure you the afternoon and evening of 9-28-80 was extremely busy as it can be verified at different times there were 10 AWOLs as well as numerous students LWP on campus. This did not include his handling of situations in cottages, contacts with Social Workers, parents, etc. I can understand how this matter may have been postponed or simply overlooked by Mr. Lewis. Mr. Lewis is a former Advocate Defender and is aware of the necessity of this information being forwarded to the administrative level. In short, I honestly feel a human error in lack of notification to the administration occurred. I do not believe there was any intentional concealing of facts concerning this incident on Mr. Lewis' behalf.

Mr. Pennolla had completed his interview and I informed him of the current situation. For the remainder of 10-1-80 together, we interviewed Mr. White, Mrs. J[redacted], Mrs. M[redacted], and Paul [redacted] I asked Mr. John Prather, Supervisor of Mr. B[redacted] to contact Mr. B[redacted] to come in and contact me immediately. I suggested to Mr. Shafer I felt the incident was serious enough to warrant the relieving of Mr. B[redacted] of duty. I advised Mr. B[redacted] of the allegations against him and indicated this was a very serious situation. I advised him that I would be contacting him later for interview purposes. Mr. B[redacted] appeared stunned and offered no explanation concerning the incident.

After listening to Mr. White's statement concerning what took place in the dorm area, as well as a statement Mr. B[redacted] was to have made upon arriving back in the office area of Central Cottage, it was felt Mrs. M[redacted] and Mrs. J[redacted] would have had knowledge of an incident outside the normal routine of the evening. According to Mr. White, Mr. B[redacted] after his altercation with Paul, was supposed to issued a statement loud enough for Mr. White, Mrs. M[redacted] and Mrs. J[redacted] to hear, something to the effect "you didn't see anything, did you?" I asked Mr. White if this was a statement asked as a question and he indicated it was not a question of the staff involved, it was merely a "solid" sounding statement.

Mrs. J[redacted]n and Mrs. M[redacted] were interviewed and were not able to substantiate any improprieties concerning this incident, in fact, both ladies denied any knowledge of any problem and both indicated they did not hear any statement by Mr. B[redacted] such as "you didn't see anything, did you?" Of these two YGS, I felt the possibility existed that Mrs. J[redacted] would "cover" for an employee acting outside of policy guidelines as in the distant past, Mrs. J[redacted] acted outside policy by cursing students. I felt Mrs. M[redacted] did tell all the truth to the best of her ability. At this point, rather than go into the lengthy questioning of these ladies, I will delete them from this report, as well as the in-depth interviews of all witnesses. It is my opinion that Mr. Pennolla's report will cover this material in total and in great depth. Even after calling Mrs. J[redacted] back the next day (10-2-80) there was still no indication the incident had been witnessed or heard by anyone except Mr. B[redacted], Mr. White, and the victim, Paul [redacted].

The interview with Paul supported the majority of Mr. White's statement; however, there were discrepancies that were fairly major. Mr. White describes Mr. B[redacted] as calling Paul "you little son-of-a-bitch and you little bastard." Paul did not remember and did not accuse Mr. B[redacted] of this action. Mr. White indicated he was concerned Mr. B[redacted] was twisting Paul's arm up behind his back to the point it might break. Paul indicated no one twisted his arm as he was never in a position other than on his back. Paul indicated Mr. B[redacted] hit him in the mouth with his fist but Mr. White was not in a position to see this happen so this cannot be substantiated. Paul and Pete both indicated there was blood on his mouth. Mr. White further indicates that blood was on the pillow slip and on the sheet. Through the interviews with Mrs. [redacted] and Mrs. J[redacted], this could not be substantiated. I contacted Mrs. Patricia Clark, the midnight YGS on that date as she indicated she is the one who stripped the bed and she saw no blood on the pillow slips or sheets. I contacted Mr. Leonard Burgess, Laundry Supervisor, who indicated that unusual stains are noted so that they may be removed and no notice was given from Central Cottage concerning any stains on any bed clothes. Dr. James Thomas, Institutional Dentist, examined Paul and found no signs of any cuts, abrasions, or abnormality of the cheek, gums, teeth, and lips of Paul; specifically, he gave a report of no past or recent injuries being found or observed. Mr. White's statement indicates Mr. B[redacted] had Paul by the hair of the head and was slamming his head into the headboard of the bed, Paul indicates Mr. B[redacted] left hand was around his jaw and he bounced his head on the bed and by the position of his head, it was partially against the headboard. Paul did not indicate that his hair had been pulled in any manner whatsoever.

With the above listed inconsistencies in the incident, Mr. Penolla and I interviewed Mr. [redacted] on 10-2-80. Mr. B[redacted] was advised of his rights, understood the seriousness of the charges and the possible consequence. He signed the waiver as he indicated he would like to talk with us. Mr. B[redacted] indicated much the same as the witnesses, Mrs. M[redacted] and Mrs. J[redacted] now Paul was being very vulgar toward the female YGS. Mr. B[redacted] indicates he walked back after what he thought was a request to see if they could get Paul in bed. Mr. B[redacted] indicated Paul was just verbally irate. He indicated Paul was in bed, he reached down with his hand to Paul's jaw and said something to the effect "why don't you just shut your damn vulgar mouth?" He did not remember saying anything particularly vulgar or remember any name calling which may have been directed toward Paul. This is all of the physical contact Mr. B[redacted] indicated took place between he and Paul. Mr. B[redacted] states further he requested Paul apologize to the YGS for his extremely inappropriate language and it was further determined Paul was required to apologize between two and three different times because of the sarcastic way in which he was addressing the ladies. I feel Mr. B[redacted] tried to reconstruct the situation to the best of his ability.

There is no question an incident took place concerning physical interaction between Paul and [redacted] Mr B[redacted] on the night of 9-27-80. The extent to which physical interaction took place is questionable. It is very difficult to discount the statements of the Social Worker, Pete White. However, the substantiation of the blood and the injury which prompted the bleeding cannot be substantiated. Evidence is either non-existent or non-available. I do not suspect either Mrs. M[redacted] or Mrs. J[redacted] or protecting Mr. B[redacted] to the point of becoming an accessory to child abuse. This possibility was particularly explained to Mrs. J[redacted]. Paul's own statement does not suggest as harsh a treatment as Mr. White's. Mr. B[redacted] did not hesitate in agreeing to the taking of a polygraph and in knowing Mr. B[redacted], had he not told all the truth I do not think he would have agreed. Being as objective as possible, I do not feel there is sufficient information, evidence, or statements from witnesses to support child abuse. There does not appear to be enough supporting documentation to recommend termination of employment. Therefore, I am recommending Mr. B[redacted] receive some disciplinary action for his inappropriate grabbing of Paul's jaw from the State Office level. Mr. B[redacted] and I talked concerning the inappropriateness of his getting ahold of Paul's jaw. He is aware that is not good child care. This has been a very difficult, exhaustive examination of facts and statements but I do not believe it is as serious as what initially appeared to be the problem.

Gary W. Hunt

Gary W. Hunt, Superintendent

GWH:ph

Attachments

cc: Chase Gordon, Coordinator, BICSCY
Al Penolla, Inspector General's office
Advocate General
Advocate Defender

-20-83

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 10-7-80 DATE OF REPORT 10-9-80.
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION W.S.C.H.
JUVENILES INVOLVED - IS-#
RONALD [redacted]
MIKE [redacted]
RICHARD [redacted]

STAFF AND CLASSIFICATION
[redacted] B[redacted], NIGHT WATCHMAN
WITNESS: ROGER ELKINS, SOCIAL WORKER

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☐ Physical ☒ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☐ Living Conditions
☒ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☒ Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Students allege that Mr. B[redacted] threatened to hit them over head with flash light.

FINDINGS OF ALLEGATIONS: Roger [redacted]s indicated that Mr. B[redacted] did tell boys they might be bit by a snake if they went into a sewage tunnel again.

ACTION TAKEN AT INSTITUTION: Please refer to memo submitted by Mr. John Prather, Supervisor of Security.

INSTITUTION'S RESPONSE: Please refer to memo from Mr. Hunt, Superintendent.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Findings discussed with students following special leaves.

☐ Resolved
☐ Not Resolved
☒ Other

Robert Mitchell
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Three juveniles alleged being threatened by an employee. Mr. B[redacted] denied threatening the students. Mr. Elkins, social worker who was at the scene did not support the allegation. In view of the conflicting statements, the allegation could not be substantiated. It was felt further inquiry into the matter would not reveal any new information.

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

John Leitch
☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

W-80-65

#125

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: Gary W. Hunt, Superintendent

Date: March 6, 1981

From: Steve Scott, Deputy Superintendent

Attention:

Subject: Mike [redacted]

In Reply—Address to Attention: ______________________

Attached are statements from student, Mike [redacted], and staff members who were involved before, during, and after the physical confrontation which took place between Mike and night watchmen, [redacted] C[redacted] and [redacted] B[redacted]. As far as my involvement and knowledge of this incident, I was called along with Mr. Carmen Wright, who was acting A.O.D. the evening of 3-5-81 to Central Cottage when it was reported that Mike was experiencing pain in his right shoulder, by an on-duty YGS who felt that he should be seen. When Mr. Wright and myself arrived at Central, Mike was on the upper ward lying in bed complaining of pain in his right shoulder.

Mike was able to move his arm and stated that he was not sure as to exactly when the injury occurred during his altercation with the night watchmen. At that time, I made telephone contact with Mrs. Teresa Stutzman, staff nurse, and reported Mike's physical condition to her. She recommended that we apply heat to his shoulder area and give him two Tylenols. At the time it was difficult to determine the seriousness of Mike's injury; however, on March 6, 1981, Mike was taken for X-rays which indicated that he had suffered a fracture below the socket of his right arm. He has been referred to Orthopedic Specialists in Tulsa, Oklahoma, for further treatment.

Mr. B[redacted] and Mr. C[redacted] were contacted by their supervisor, Mr. John Prather, and requested to come into the office to give statements. They both arrived approximately 11:45 A.M. this date and were placed in separate offices to write their statements. This was done in order to reduce the possibility or accusation of collusion. This is being submitted for your information, review, and consideration.

Steve Scott, Deputy Superintendent

SS:ph

Attachments

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: Wesley Rucker, Supervisor
Div. of Insts. and Community
Services to Children and Youth

Date: March 13, 1981

From: Charles Garrett
Inspector General

Attention: David Shafer

Subject: Whitaker State Children's Home
Alledged Abuse of Mike [redacted]
Mr. [redacted] B[redacted]
Mr [redacted] C[redacted]

In Reply—Address to
Attention: William T. Saxton
Legal Investigator

Please refer to OIG-1 Form dated 3-6-81 concerning the above subjects alledging that the two night watchman, C[redacted] and B[redacted] abused student Mike [redacted] while being transported from Cedar Cottage to Central Cottage at Whitaker State Children's Home. On March 10, 1981, investigator Saxton interviewed Mr. Gary Hunt, Superintendent, who stated that statements had been obtained from [redacted] Mr. C[redacted], [redacted] Mr. B[redacted] Mike [redacted], Ella D. Squirrel - YGS II, Jacqueline Richard - GYS II, Steve Scott - Deputy Supertendent, Carmen E. Wright - Administrative Assistant and Jason S. Brand - Program Supervisor. Copies of the statements obtained are attached to this report. Mr. Hunt also provided investigator with a copy of the Crisis Intervention report concerning this incident, and the YGS notes from both Cedar and Central Cottages which are also attached.

On March 10, 1981, investigator Saxton interviewed student Mike [redacted] in the presence of Mr. Hunt and the Advocate Defender assigned to Whitaker State School. Mike [redacted] told investigator essentially the same information that he had provided in the original statement taken by Mr. Brand and Mr. Scott. Upon questioning, Mike stated that he was 14 years of age and had been assigned to Whitaker's Cedar Cottage since October 18, 1980. He had gone to recreation earlier on the evening of March 5, 1981. While at recreation, he had a disagreement with another male student concerning a girl. When he returned to the cottage he was mad about this discussion with the other student. He went up the front door of the cottage and started hitting on the door. He stated that he felt he had to hit something or someone and that this was the safest thing for him to do. One of the YGS's assigned to the cottage told him to stop this and go to bed. He did not go to bed but instead sat in a chair watching television. Mr. Brand, who was in the cottage at this time, came up to the front of the cottage and called Central to request them to send over security officers. Shortly after this, Mr. B[redacted] and Mr. C[redacted] came to the cottage. Mr. C[redacted] asked Mike to get up from the chair and go to Central. Mike did not get up and Mr. Brand said something to the affect that he should not make Mr. C[redacted] have to ask twice.

C[redacted] then came up behind and grabbed him behind the neck and took hold of one of his arms. He stated that Mr. B[redacted] took hold of his right arm with both of his hands and the two guards walked him out through the door. Just before they got to the sidewalk in front of Cedar Cottage, Mike told Mr. C[redacted] that he was choking him and ask him to let up. He stated that Mr. C[redacted] told him that he was a liar but Mr. C[redacted] did release his hold on the neck. Mr. B[redacted] continued to hold Mike's right arm with both of his hands. When they got over by the entrance to Central Cottage that had previously been Separation, Mike asked why he was being taken to Central. Mr. C[redacted] told him that he couldn't ask this question. B[redacted] started pulling back on Mike's arm forcing Mike to back up against B[redacted]. Mike was then pushed up against the brick wall on the side of the building. Mr. B[redacted] then told Mike, "That was my wife that you cursed out last week." Mike told Mr. B[redacted] that he had since apologized to his wife. B[redacted] then told Mike to say to him what he had said to B[redacted] wife. Both B[redacted] and C[redacted] again took hold of Mike and carried him on over to the Central Cottage entrance. Just before getting to the door, Mr. B[redacted] grabbed Mike by the hair and mentioned something about his wife again. C[redacted] released his hold on Mike and opened the door to Central. Mr. C[redacted] then pushed him into the cottage and let loose of his arm. Mike went into the cottage and sat down in a chair and he stated at this time he was crying because his head hurt when it hit the brick wall of the building. Mr. B[redacted] came over and grabbed Mike by the chin and told him to shut up. C[redacted] motioned for B[redacted] to stop this and pointed up toward the stairs where Mrs. Squirrel, a YGS, was standing. Mr. Squirrel admitted Mike to Central and took him up to the top dorm to show him his bed. He told Mrs. Squirrel that his arm was hurting and asked if he might call Mr. Wright. She told Mike to lay down on his bed and she would see what she could do. Mike laid down on the bed until Mr. Wright and Mr. Scott came over to the cottage. B[redacted]s and C[redacted] had left the cottage shortly after Mrs. Squirrel took him upstairs. Mike stated that he may have been trying to pull away from Mr. B[redacted] because he was afraid that Mr. B[redacted] might hit him. Mike stated that he felt pain in his right arm after Mr. B[redacted] let go of him. Mr. Scott and Mr. Wright later came over to the cottage and talked with Mike. One of them called a nurse who told Mr. Scott or Mr. Wright to give Mike some Tylenol and let him go to bed. Mike [redacted] stated that he would be willing to take a polygraph examination concerning his statements. He only commented that he was going on leave the week of March 16, 1981, and could take the examination either prior to or after his leave.

Investigator then interviewed John Prather, security supervisor at Whitaker State Children's Home. Mr. Prather stated that Mr. B[redacted] had been under his supervision as a night watchman since April, 1975. Mr. B[redacted] had been transferred from the position of house parent to night watchman after numerous incidents concerning the treatment of students. B[redacted] was transferred immediately after an incident occurred where a student attempted to drop a cement block on Mr. B[redacted] head from the top of a stairwell. Prather stated that most of Mr. B[redacted]' problems were created by his mouth. He is always complaining about small items such as light bulbs that are left on, etc. Prather stated that on the job he is a little over zealous about reporting such things. Prather recalled that there had been other incidents concerning Mr. B[redacted] that had been investigated by the State Office. Mr. B[redacted] has always had problems in his contacts with house parents and other staff members. The few staff with which he makes friends will sometimes get Mr. B[redacted] to go overboard in running personal errands. Mr. Prather stated that B[redacted] may have the seriousness of this incident brought home to him if he was suspended without pay for a period of time.

Mr. [redacted] C[redacted] was interviewed by investigator in the presence of Mr. Hunt. He stated that he was on patrol with Mr. B[redacted] on the evening of March 5, 1981, when he was called to Cedar to assist a YGS. When they arrived at Cedar Cottage at approximately 9:45 P.M., Mr. Brand instructed them to take Mike [redacted] to Central Cottage. The remainder of Mr. C[redacted] statement is similar to the one given by Mr. B[redacted] and his original statement. C[redacted] stated that he had placed his right arm around Mike's neck just under the chin but could not have choked him as the inside of his elbow would have been over Mike's chin and not his neck. He stated that Mr. B[redacted] had took hold of Mike's right arm with both arms but did not twist the arm behind his back. Shortly after they got out on to the sidewalk, Mike told C[redacted] that if he let loose Mike would walk to Central by himself. C[redacted] released Mike and they walked on toward Central with only Mr. B[redacted] holding on to Mike's arm. Near the old Separation Center Mike started to struggle and he and Mr. B[redacted] fell to the sidewalk. [redacted] Mr C [redacted] reached over and got another hold on Mike pulling him back up. They then walked him on over to Central Cottage. C[redacted]r stated that B[redacted] had let loose of Mike and opened the door to Central. He took Mike over to a chair and set him down. Mike started cursing and B[redacted] told him to shut up. C[redacted] did not see B[redacted] touch Mike again inside the cottage. He did not recall saying anything to B[redacted] once they were in the cottage. C[redacted]r states that he did not hear B[redacted] say anything to Mike about B[redacted]' wife. He did not see B[redacted] pull Mike's hair. He stated that Mike appeared to be more angry than crying when they got to Central Cottage. Mr. C[redacted] stated that he would not take a polygraph examination under any circumstances. He related that he had spent a number of years as a military police guard at military prisons and had heard numerous stories about persons who had been convicted and sentenced to prison as a result of polygraph examinations. Investigator attempted to explain to C[redacted] no one had ever been convicted soley on the basis of polygraph examinations and there had to be other evidence in order for anyone to have been convicted and sent to prison; however, he still refused to take a polygraph examination.

Investigators Saxton and Kennedy interviewed [redacted] B[redacted] on the evening of March 11, 1981, in the presence of Mr. Hunt. Mr. B[redacted] statement was essentially the same as his original statement. B[redacted] stated that he and C[redacted] had been called to Cedar Cottage to assist a YGS. When they arrived, they were instructed by Mr. Brand to take Mike [redacted] to Central Cottage. C[redacted]r told Mike to get up and go to Central. He stated that Mike continued to sit in the chair and argue about going. B[redacted] stated that C[redacted] helped Mike up by placing his arm around Mike's neck and taking him out of the cottage. B[redacted] stated that he had not put his hands on Mike until after they got out of the cottage. When they got down to the sidewalk, Mike continued to argue and act like he was trying to get loose. B[redacted] then took hold of Mike around his right arm with both of B[redacted]' arms. Mike told C[redacted] that if he let go, he would walk to Central. After C[redacted] released Mike, Mike appeared to attempt to be getting away. B[redacted] and Mike fell to the sidewalk near the entrance to the old Separation Building. B[redacted] stated that Mike may have bumped his head against the wall but really didn't know if this had happened. B[redacted] and C[redacted] rasseled around with Mike until they again had him under control and then walked him over to the door of Central. B[redacted] stated he had let loose of Mike and opened the door to Central. C[redacted] told Mike to sit down in the chair, which he did. Mike kept mouthing off and B[redacted] told him to shut up. B[redacted] states that he did not again put his hands on Mike after arriving in Central Cottage. C[redacted] signed Mike into the cottage and both he and C[redacted] left the cottage. B[redacted] states that he did not recall seeing anyone from the staff in Central Cottage. He did not know where Mrs. Squirrel may have been standing while he was in the cottage. Mr. B[redacted] stated that he did not know that Mike was injured in any way until the following day when he received a call from Mr. Prather. B[redacted] denied that he had talked to Mike about B[redacted]' wife. B[redacted] stated that he did not even know that Mike had cursed his wife until the day after the incident when he and his wife were talking at home. B[redacted] wife told him that this might be the same boy that had cursed her a week previously. On the second day after the incident, B[redacted]' wife told him that this was the same boy but the boy had come by several days later and apologized to her, after a fashion. Mike came to the cottage and yelled out to Mrs. B[redacted] and said, "Hey lady, I am sorry I cussed you out the other night." B[redacted] denied that he had twisted Mike [redacted] arm behind his back at any time. He denied that he had ever had any problems with any of the students on campus, except a student by the name of Elvin [redacted]. He did recall hearing that Mr. Scott and Mr. Wright had been called over to the cottage on the same evening of this incident. Mr. B[redacted] stated that he was a very emotional type person and would be afraid to take a polygraph examination. After some discussion, Mr. B[redacted] did agree that he would take a polygraph examination if the others involved were also willing.

It is the investigator's opinion that neither Mr. B[redacted] or Mr. C[redacted] are telling the complete truth concerning their actions on the evening of March 5, 1981. It is recommended that Mike B[redacted] be administered a polygraph examination and that Mr. B[redacted] and C[redacted] be officially requested in writing as to their willingness to take such an examination. If the student is telling the truth and these two individuals refuse to take a polygraph, then appropriate administrative action should be taken.

If this recommendation is approved, investigator Saxton will make the arrangements of the administering of polygraph examinations by a qualified examiner from the OSBI.

This is for your information.

Charles Garrett
Charles Garrett
Inspector General

CG:WTS:rae

cc: Wesley Rucker
OIG Files
Clifford Burns

W-81-6

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 1-26-81
DATE ISSUE RESOLVED
DATE OF REPORT 1-29-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
CHRISTY [redacted], [redacted]
WITNESSES: SANDI [redacted]
VONDA [redacted]

STAFF AND CLASSIFICATION
[redacted] NIGHTWATCHMAN
WITNESS: MRS. CLARK, S.O.D.
MRS. COOK, YGS

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☐ Physical ☒ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☒ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges Mr. [redacted] verbally threatened to "break her fucking arm."

FINDINGS OF ALLEGATIONS: Vonda [redacted] supported statement; Sandi [redacted] did not; statement refuted by S.O.D. Clark, YGS Cook and [redacted]

ACTION TAKEN AT INSTITUTION: Employee and student statements refuted allegation; no further action appears warranted.

INSTITUTION'S RESPONSE: As this allegation was determined to be unfounded, no further action is anticipated.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Investigation initiated by Advocate/Defender, student response not applicable.
☐ Resolved
☐ Not Resolved
☒ Other

Robert Mitchell
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A student reported an employee threatened to break her arm. The allegation was considered to be unfounded as several witnesses refuted the claim. Further inquiry into the matter was not warrane

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

☒ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

John Leitner

Attached Reports from:

Okla. DISRS Issued 11-1-79

DICSCY-1

W-81-50

[redacted], Barbara
Mr.
[redacted] C[redacted]
..-4275
phys al — Security

Allegation Abuse-verbal
(version) Grabbed in headlock and called "slut".

Findings-Subst-Statements from three students supported the claim.

Action taken-none due to delay in submitting report
-report apparently mis-filed until found.

Disposition-none

Additional info-The employee was terminated eff 1-19-82 due to another incident.

- also ~~recent~~ recent change in Supt and Student Representative

Juvenile YES X
NO ___

ND

T ~~10-30-81~~

SSIFICATION
.sin - Security Officer

FINDINGS OF ALLEGATIONS

☒ Substantiated

☐ Not Substantiated

☐ Unfounded

☐ Other

☐ Policy Violation

☒ Abuse ☒ Physical ☒ Verbal

☐ Policy Clarification

☐ Other

☐ Detention

☐ Limited Privileges

☐ Disciplinary Measures

☐ Medical

☐ Living Conditions

☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Barbara [redacted] alleges on or about 10-24-81, C[redacted] grabbed her by a headlock; on 10-29-81 called her a "slut". [redacted] Gwen alleges on 10-29-81 C[redacted] twisted her arm and that he referred to [redacted] Barbara and other girls as "slut, bitch."

FINDINGS OF ALLEGATIONS: All three students witnessed or were involved in both incidents and corroborated each others account of what happened.

ACTION TAKEN AT INSTITUTION: Mr. C[redacted] is no longer employed at WSCH. Effective date of termination is 1-19-82.

INSTITUTION'S RESPONSE: ___

SIGNATURE: ___ TITLE: ___

JUVENILE'S RESPONSE & COMMENT: ___

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: This grievance was poorly processed/managed by the Student Representative. Grievance was not sent to this office until 2-'82. However, the employee was terminated eff. 1-19-82 as a result of another incident. It should also be noted of a recent change in the Supt and Student Representative.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level

☐ Unresolved

☐ Other

☐ Referred to State Office

☒ Report Filed-No Additional Information needed

John Leuth

W-81-50

Attached Reports from:

481

Okla. DISRS Issued 11-1-79

BICSCY-1

(EXAMPLE 2.—As the following documents indicate, Mr. P., a Youth Guidance Specialist at Whitaker, also was the subject of repeated abuse allegations.)

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: January 29, 1979

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: JUVENILES' COMPLAINTS OF
MISTREATMENT BY AN EMPLOYEE
WHITAKER STATE CHILDREN'S HOME
[redacted], Leon - IS-W 3459
[redacted], John - IS-W 3866
[redacted] Phillip - IS-W 3936
[redacted], Jay - IS-W 2233
Mr. P[redacted] - Youth Guidance Specialist

In Reply - Address to
Attention: ______________________

The Advocate Defender was contacted by four juveniles who complained of being mistreated by an employee.

Mr. [redacted] P[redacted], Youth Guidance Specialist, was accused of general harassment that included verbal and physical abuse. Specific allegations were: taunting juveniles in an attempt to provoke physical confrontations; excessive use of physical force; threats; cursing; and encouraging students to "finish fights" between juveniles.

Upon receiving the above information, the Institutional Program Supervisor randomly selected and interviewed seven juveniles in regard to Mr. P[redacted] child care practices. One student reported being awakened around 3:00 am and was forced to exercise. The same student claimed seeing another juvenile being pushed around. The remaining six students failed to give any addtional negative information.

The Advocate Defender reviewed Mr. P[redacted]s institutional personnel file after receiving information that several complaints had been made during previous months. Several negative notations in the "file" regarding child care practices. The notations covered the period from March, 1977, thru February, 1978.

The Advocate Defender's information was referred to Mr. Hunt, Superintendent. Both the Supervisor of Division of Institutional Services and the Superintendent felt some type of action was in order.

A memo was received from Mr. Shafer, Supervisor, Division of Institutional Services, recommending the matter be referred to the State Office Disciplinary Review Committee.

Since action has been initiated by the Division of Institutional Services' Supervisor, no further recommendation appears to be warranted at this time.

(#9)

W-78-25

JUVENILES' COMPLAINTS OF
MISTREATMENT BY AN EMPLOYEE
WHITAKER STATE CHILDREN'S HOME
JANUARY 29, 1979
PAGE 2

Attached are reports from the Superintendent, Advocate Defender, and a memo from Mr. Shafer. (Also being attached is a brief comment on the institution's notations regarding Mr. P[redacted] in chronological order.)

JLJ:jr

John Leitner Jr.

cc: Shafer

Attachments

Hurt Lewis

INSTITUTION'S NOTATIONS REGARDING MR. P[redacted]

3-14-77 - Poor house cleaning practices

5-27-77 - Use of corporal punishment

6-24-77 - Student alleged YGS-([redacted] W[redacted])
- (1) struck him with brush handle
- (2) "slammed" him around
- (3) Knife held against his nose

7-23-77 - Student "punched him stomach" (Tony [redacted])

7-27-77 - Student slapped across face (Bobby [redacted])

8-10-77 - Physical abuse to "Poplar" boys

12-7-77 - Racial remarks made to students

12-14-77 - Racial remarks made to a student (Eugene [redacted])

2-5-78 - Use of juveniles to subdue another juvenile (Ernest [redacted])

2-16-78 - Cursing and threatening a student (Luther [redacted])

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: January 22, 1979

From: David Shafer, Supervisor, Division of Institutional Services

Attention: Ted Morris, Asst. Coordinator, Personnel - BICSCY

Subject: Personnel Recommendations
Re: Disciplinary Review Committee

In Reply - Address to
Attention: ______________________

Attached you will find copies of reports and recommendations referring the following named personnel to the State Office Disciplinary Review Committee.

[redacted]	[redacted]	Boley
[redacted]	[redacted]	Boley
[redacted] Mr.P.	[redacted]	Whitaker

After reading the documentation of prior instances and discussing the situations with the superintendents involved, I concur that at this point a meeting with the Disciplinary Review Committee would be the appropriate personnel action to be taken.

I would further recommend that a copy of this hearing be made a part of the involved individuals' permanent personnel record.

DS:NC:jbr
Att.

cc: ✓John Leitka, S.O.
R. L. Doyle, Boley
Gary Hunt, WSCH
File - DIS
Ted Morris, S.O.

David Shafer, Supervisor,
Division of Institutional Services.

RECOMMEND:

____APPROVAL____DISAPPROVAL

____
Chase Gordon, Coordinator, BICSCY.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

John Leitka

To: L. E. Rader, Director, Institutions,
Social and Rehabilitative Services

Date: December 15, 1978

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David Shafer, Supervisor
Institutional Services

Subject: [redacted] P[redacted]
Youth Guidance Specialist

In Reply - Address to
Attention: ______________________

Please refer to the memo submitted by Mr. Bascom Lewis, Advocate Defender for Whitaker State Children's Home on 11-29-78. This memo contained alleged mistreatment of students by Mr. [redacted] P[redacted], Youth Guidance Specialist. Attached you will find a report submitted to me by the Program Supervisor regarding this incident. As indicated, the program supervisor selected seven students not involved in the allegations.

In reviewing the information compiled from the personnel file on Mr. P[redacted] by the Advocate Defender, it does seem to be very clearly pointed out that he has been talked to frequently by his supervisor about not using corporal punishment. In the current allegations, I feel the students in question may not be considered as reliable witnesses. However, I do feel that the incidents as described by the students are predominantly accurate and that they did happen to some degree. It should be pointed out that Mr. P[redacted] is prepared to pursue this matter with his attorney as far as a hearing before the Merit Board. Since I feel these students may not hold up under a cross-examination process, I feel this case is considered to be weak for termination purposes. Therefore, I am recommending that Mr. P[redacted] be placed on the agenda to meet with the State office Disciplinary Review Committee. The overwhelming number of instances taken from the personnel file along with repeated warnings should be sufficient for the disciplinary review committee to be activated.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph

Attachments

cc: Advocate General ✓
Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: GARY W. HUNT, SUPERINTENDENT
WHITAKER STATE CHILDREN'S HOME

Date: DECEMBER 8, 1978

From: JASON BRAND, PROGRAM
SUPERVISOR

Attention:

Subject: Mr. [redacted] P[redacted]

In Reply - Address to
Attention: ______________________

While pursuing information related to the alleged mistreatment of students by [redacted] Mr. P, I randomly selected seven students from Spruce Cottage, not involved in the allegations.

After interviewing these boys, I found only one out of seven had information concerning verbal or physical abuse by Mr. P[redacted], which they had directly witnessed. The boy, Brett [redacted], alleged that on one occasion Mr. P[redacted] woke him up at around 3:00AM, and made him exercise. He stated that he had not been in trouble on Mr. P[redacted] shift, but had caused some type of trouble on the preceeding shift. He further stated that after an argument with Tony [redacted], Mr. P[redacted] grabbed Tony, pushed him into the office, took him by the shirt lapels and threw him up against the wall several times. Brett claimed that he witnessed the whole incident because he was taken in the office also. He had no other information concerning this employee.

Upon following up on this allegation, I spoke with Tony [redacted] regarding this incident. Tony could not recall ever being taken into the office with Brett [redacted]. by Mr. P[redacted]. But he did state that he had been taken into the office with another boy. He said this happened after a fight and that he and the boy were told to finish the fight. He further stated that he and the other boy did finish the fight and that the whole incident was witnessed by and under the direction of Mr. P[redacted].

I have been unable to discover any further evidence of mistreatment of Spruce Cottage boys, other than those directly involved in the allegations.

Jason Brand
JASON BRAND

JB:pm

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

John—

To: L. E. Rader, Director Institutions, Social and Rehabilitative Services

Date: November 29, 1978

From: Bascom Lewis, Advocate Defender Whitaker State Children's Home

Attention: Chase Gordon, Coordinator BICSCY

Special Atten: John Lietka

In Reply - Address to:

Attention:

Subject: STUDENTS COMPLAINTS OF MISTREATMENT BY A HOUSEPARENT

In preparing for a Limited Privilege Hearing with a student, I received complaints from him of having been mistreated by a Houseparent in his Cottage, Mr. P[redacted]. During the course of our conversation, he also indicated that other students had been treated in a similar fashion by the Houseparent. These other students were seen the same day.

On November 28, 1978, I called all of those students back to my office, one at a time, and had conversations with them concerning the allegations they had made during our prior discussions. These conversations were recorded and copies of them in typewritten form, signed by the students and myself, are attached.

Leon [redacted] was the first student interviewed. The forms of mistreatment complained in the statement that Leon made were that the Houseparent kicked his foot out of the way; that the Houseparent put his leg behind the student and pushed him over it, into a chair; that the Houseparent grabbed him around the neck and took him into the office and that the Houseparent threatened him by taunting him to come back and fight like a man, as the student was running away from the cottage.

The next student that I talked to was John [redacted]r. The forms of mistreatment alleged in John's statement were that Mr. P[redacted] grabbed he and another student, who were fighting, around each of their heads and banged their heads together and threw them into his office; that he was choking John while he had his head under his arm; that he threw the students in the office and allowed them to continue their fight inside the office. John also stated that on an occasion when he and another student were fighting, Mr. P[redacted] tripped him as he was running down the hall and laughed about it. John stated also that on one occasion Mr. P[redacted] told him that he was taking too long in the bathroom and gripped the back of his neck and pushed him. John indicated too, that Mr. P[redacted] threatens the students in the cottage with his attorney and with the use of physical force, although John could not remember any particular threats.

The third student interviewed was Phillip [redacted]. Phillip's statement contained the allegation that Mr. P[redacted] had picked him up off the floor

cc: D. Stalls
12-8-78
KH

Page (2)
Memo from Bascom Lewis
November 29, 1978

and threw him against the wall and told him that he should throw him through the wall.

The last student that I talked to was Jay [redacted]. Jay indicated in his statement that he was present and saw Mr..P[redacted] throw Phillip against the wall, because he and Phillip had been fighting and Mr. P[redacted] had grabbed them by the hair of their head and brought them into the office and thrown them into a chair just prior to the incident mentioned earlier concerning Phillip [redacted] Jay stated that after being thrown in the chair, he started to get up and Mr. P[redacted] clinched his fist and drew it back while indicating to him that he wanted him to remain in the chair. Jay also indicated that Mr. P[redacted] curses frequently while talking to the students, although he was able to remember only one incident.

Bascom Lewis
BASCOM LEWIS, ADVOCATE DEFENDER

JBL:pm
Attachments (4)
cc:Mr. Gary W. Hunt
JBL File

John

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director-Institutions, Social and Rehabilitative Services

Date: December 4, 1978

From: Bascom Lewis, Advocate Defender
Whitaker State Children's Home

Attention: Chase Gordon, Coordinator
BICSCY

Special Atten: John Lietka

Subject: SUPPLEMENTAL INFORMATION

In Reply - Address ~~to~~

Attention:

The following information is being submitted as a supplement to the memo dated 11-29-78, subject: Students Complaints of Mistreatment by a Houseparent.

The Houseparent named in the complaints, [redacted], has several documents in his personnel file, on campus, which suggest other incidents of verbal or physical mistreatment. Many of these incidents are described in handwritten form, on notebook paper, therefore copies may not have been forwarded to his file in the state office. Other documents contain information that appears to bear relationship to the complaints, although they do not address any inappropriate behavior with students.

Below are summaries of the information contained in the record. Complete copies of all of the reports from which this information has been taken are attached.

There are nine memos to the Superintendent contained in the file.

5-27-77 Memo from Katherine Murray, Houseparent Supervisor to the Superintendent. She states that she and Chester Webster had a conference with Mr. [redacted], wherein they talked with him about the use of corporal punishment, (belt and kicking). She indicated that Mr. [redacted] was told he would find and use other means of dicipline.

6-24-77 Memo from Mr. [redacted] to the Superintendent. This was an incident report about calling Rodney [redacted] into his office to talk to him about his behavior. Below Mr. [redacted] writing, Katherine Murray has written: Rodney [redacted] stated Mr. [redacted] took him in the office and hit him with a stool brush handle, slammed him around, pulled out his knife and put it against Rodney's nose. She indicated that Mr. [redacted] denied this.

7-23-77 Memo from Katherine Murray, indicating Mr. [redacted] had been playing army , using dust mops and that the mops were thrown by the boys and Mr. [redacted], and that Mr. [redacted] had hit Tony [redacted] in the stomach. Memo indicated that she had talked with Mr. [redacted] again to impress upon him the necessity of using proper and approved methods of caring for children. She described his attitude as being that his method of caring for the boys was all right.

cc: D Stapp
12-8-78
RP

Page (2)
12-4-78
Memo from Bascom Lewis,
Supplemental

7-27-77 Memo from Katherine Murray. This memo stated that Nelson [redacted] told Mr. [redacted] that Bobby [redacted] had asked him to go to the bathroom and have sex-play. It stated that Mr. [redacted] called Bobby to the office, grabbed him by the neck, slapped him across the face with a piece of cardboard. Mr. [redacted] did not ask Bobby if this was true or give him a chance to talk. Later Nelson told another Houseparent that [redacted] did not ask him to have sex with him, that he only wanted to get Bobby in trouble. I talked with Mr. [redacted] and told him this would have to stop, that he could not put his hands on the boys in any form of dicipline, Katherine stated. He was asked to write an incident report.

7-29-77 The previously mentioned incident report from Mr. [redacted] to the Superintendent stated that on or about the 22nd of July, Nelson [redacted] complained to me about Bobby [redacted] wanting to have sex-play. John [redacted] told the same story, so I believed it and took Bobby into the office for a serious talk about what I heard. He denied all of it, I did not bring any physical or verbal harm against him, as I was told I did.

Mr. P

8-3-77 Memo to the Superintendent from Katherine Murray. Subject: [redacted]; states that Glenn Stubbs, Houseparent, who was on duty when Mr. [redacted] came to work, reported that Mr. [redacted] went into the back door and almost as soon as he came in the cottage, went to Ray [redacted] bed, jerked him up and slapped him hard across the face. Ray has to be taken to the bathroom several times during the night and it is hard to wake him up. I feel Mr. [redacted] needs to use a different method of getting Ray up. Note in the corner, written by the Superintendent: This event was observed by Glenn Stubbs.

8-8-77 Memo from Chester Webster to the Superintendent. States that Mr. [redacted] has been talked to several times about using corporal punishment, by Chester Webster and Katherine Murray. The memo stated that he continued to receive complaints and Mr. Webster indicated that he did not feel Mr. [redacted] was willing to accept supervision in this area, nor was he willing to accept departmental policy, in the area of dicipline.

8-10-77 Memo from Katherine Murray indicates a meeting was held with the Superintendent, Mrs. Murray and Mr. [redacted] regarding reports of physical abuse in Poplar Cottage. The Superintendent explained that abuse was against the law and Mr. [redacted] indicated that he understood this. The Superintendent explained there were acceptable methods to be used, Mr. [redacted] agreed. Mr. [redacted] was told there could be no more such incidents. Mr. [redacted] indicated that he would like to transfer to the Park and Recreation department.

2-8-78 Memo from Billy Linam, Social Services Supervisor, to the Superintendent. Memo stated that on 2-5-78 Mr. [redacted] called about Earnest [redacted] stating that he was throwing a fit. The Supervisor indicated she asked [redacted] if he wanted help and received a negative reply. Mrs. Linam stated that she arrived at the office at 7:45 and a Houseparent named Duncan called around 8 and told her she was needed because Earnest was upset. Mrs. Linam states she got there and Earnest refused to take a shower, had his shirt torn up and was angry at Mr. [redacted] and cussing him. [redacted] left and Mrs.

Page (3)
12-4-78
Memo from Bascom Lewis,
Supplemental

Linam got Earnest to take a shower. She states that Earnest was sore and bruised from rough treatment he received from P[redacted] and several students from Cedar cottage, who had dragged him over. She indicated that P[redacted] had no authority to use these boys in taking Earnest and that she had the understanding from him that he would be taking Earnest over himself. She indicated that she could have found other adults, had she known it was necessary.

There are four memos from either the Superintendent or other supervisory personnel, to the files or the personnel unit.

11-19-76 Memo from Mitchell Rowe, Superintendent, to personnel unit. The memo stated that [redacted], Social Worker, reported that Mr. P[redacted] family were friends of her family and that she felt it was common knowledge that Mr. P[redacted] used drugs and she recommended that he not be offered employment.

8-10-77 Memo from Superintendent to the file. Indicates that there was a conference with himself, Mrs. Murray and Mr. P[redacted] wherein corporal punishment was discussed between them. Mr. P[redacted] stated that he had a short temper, but felt he did the best he could. The memo further stated that Mr. P[redacted] never acknowledged that he had struck a child, but that he did talk about using "other methods" of getting children to meet their responsibilities. Mr. P[redacted] requested a transfer to the department of Parks and Recreation. The Superintendent also stated his concern about this matter and that he did not believe Mr. P[redacted] would improve. He stated that many complaints have been made and that Mr. P[redacted] had been given supervision in this area many times.

3-14-77 Memo from Chester Webster to the files. This memo indicates that Mr. Webster and Mr. P[redacted] and Mrs. Thelma Davis had a conference where they explained to Mr. P[redacted] that there were problems in the program at Elm Cottage, specifically during his shift. Things that could have been done to have a more orderly cottage, were suggested. Mr. P[redacted] was told that several boys had complained of his talking about marijuana and he was asked to stop. Several times during the conference Mr. P[redacted] was told that he would have to improve before permanent status could be granted.

3-14-77 Second Memo to the files, written by T. A. Davis. She stated that Mr. P[redacted] is resistant to any suggestion or memo brought into the cottage. He said it didn't matter to him if beds were not made properly or presses straightened or the cottage cleaned. The memo indicated that Mr. P[redacted] said the cottage was old and would never look clean anyway. The memo also states that Mr. P[redacted] was told that when he was on duty, he was paid for eight hours work and that the children were his job.

There were four different handwritten notes contained in Mr. P[redacted] personnel records regarding the subject of verbal and physical abuse.

12-14-77 Handwritten by Carmen Wright. The note indicated that he had talked with Mr. P[redacted] about an allegation made by two students, Terry [redacted] and Eugene [redacted], that Mr. P[redacted] had called such names as "nigger" and made remarks that led Terry [redacted] to think that Mr. P[redacted] was going to throw him in the sewer. The note indicates that Mr. P[redacted] was given the information and that he did not seem too concerned. He stated, "I knew they would come up with something like that." Mr. P[redacted] also stated that he had been involved in incidents such as this before. Mr. Wright wrote that he did not deny or admit to any of the accusations. Mr. Wright also indicated that Mr. P[redacted] was told he could not deal with children in this manner, and he was asked to read and sign a memo on corporal punishment.

The fourth handwritten note was to Spruce Cottage from Charles Tye, without a date. The note stated that when Mr. Tye came on duty, Mr. P[redacted] informed him that he had "dumped" Doug [redacted]' bed this morning. Mr. P[redacted] stated that he had called Doug three or four times and Doug continued to lay in bed, so he dumped he and his bed on the floor. Mr. Tye indicated that he had explained to Mr. P[redacted] that this was an inappropriate act.

The record contained five memos between different employees of the institution.

12-7-77 Memo from Carmen Wright to Chester Webster, stating that Mr. P[redacted] said "don't laugh nigger, or you'll be next", and that he took ahold of Terry's arm, stating "that sewer looks good, you might go for a swim." The memo states that Mr. P[redacted] and Eugene [redacted] began to argue and that Mr. P[redacted] called Eugene a "nigger." He stated that Eugene called Mr. P[redacted] a "peckerwood," and that P[redacted] told Eugene he was going to make his lips bigger than they are.

2-5-78 Memo from Separation Unit to the Program Supervisor. Stating that on 2-5-78, at 8AM, Mr. P[redacted] and four students from Cedar Cottage brought Earnest [redacted] to the Separation Unit. Memo indicated that Earnest was dragged up the steps, across the porch and into the door by Mr. P[redacted] and the four students. Also states that Earnest sustained bruises on his knees and legs and was completely out of control, fighting and cursing. It further states that Earnest tore his shirt to shreds, had a blue bruise on his right arm between the elbow and shoulder and that it was on his arm before coming to the Separation Unit.

2-16-78 Memo from Carmen Wright to the Program Supervisor. States that Mr. P [redacted] told Luther [redacted] to get "little fat ass into office." Further states that when they got in there, Mr. P[redacted] took hold of Luther's shirt and shoved him against the sliding closet doors, (one of which is off the track at this time). Luther's necklace was broken. Mr. P[redacted] said "I'm getting tired of you f---ing brats, do you understand?" Memo states also that Mr. P[redacted] threatened to kick Luther's ass. Luther looked for the pieces of his necklace. Mr. P[redacted] said, "Never mind, you can buy another one out of your payroll." Luther left at that point.

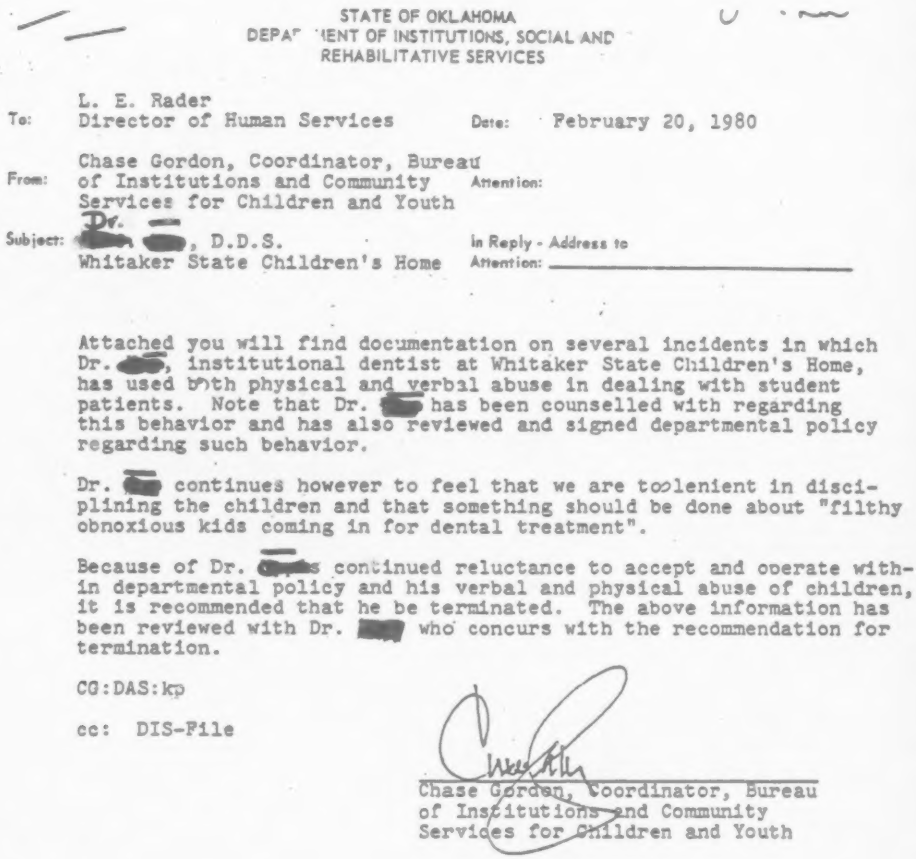
2-17-78 Memo from Mr. R[redacted] to Chester Webster. States that while talking to Luther, he had hold of the front of his shirt, to make sure he had his full attention. The memo states that in the process, Luther's necklace was broken and that Mr. R[redacted] apologized and told him he would replace it and states that he did replace it. Mr. P[redacted] further indicated that Luther was not abused physically or verbally.

It is my understanding that Mr. Hunt, presently is looking into Mr. P[redacted] Houseparenting practices. Please advise me if clarification or further information is required.

Bascom Lewis
BASCOM LEWIS, ADVOCATE DEFENDER

JBL:pm

(EXAMPLE 3.—Dr. —, the Whitaker dentist, was repeatedly alleged to have abused and frightened juveniles before he was finally terminated.)



STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader
Director of Human Services

Date: February 20, 1980

From: Chase Gordon, Coordinator, Bureau of Institutions and Community Services for Children and Youth

Attention:

Subject: Dr. [redacted], D.D.S.
Whitaker State Children's Home

In Reply - Address to Attention:

Attached you will find documentation on several incidents in which Dr. [redacted], institutional dentist at Whitaker State Children's Home, has used both physical and verbal abuse in dealing with student patients. Note that Dr. [redacted] has been counselled with regarding this behavior and has also reviewed and signed departmental policy regarding such behavior.

Dr. [redacted] continues however to feel that we are too lenient in disciplining the children and that something should be done about "filthy obnoxious kids coming in for dental treatment".

Because of Dr. [redacted]s continued reluctance to accept and operate within departmental policy and his verbal and physical abuse of children, it is recommended that he be terminated. The above information has been reviewed with Dr. [redacted] who concurs with the recommendation for termination.

CG:DAS:kp

cc: DIS-File

Chase Gordon, Coordinator, Bureau
of Institutions and Community
Services for Children and Youth

ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

w-79-56

INSTITUTION Whitaker

September 17, 1979

JUVENILES INVOLVED - IS-#

Van [redacted]

STAFF INVOLVED-CLASSIFICATION

Dr. [redacted] Dentis

NATURE OF COMPLAINT OR REPORT

☐ ABUSE
Physical
Verbal

☐ POLICY
Hearings
Detention
Limited Privileges

Disciplinary Measures
Medical
Living Conditions

☐ OTHER

BRIEF STATEMENT: The institution reported a juvenile refused dental services because of being subjected to verbal intimidation from the dentist.

FINDINGS OF ALLEGATIONS ☒ Substantiated ☐ Not Substantiated ☐ Unfounde

COMMENT: The Superintendent reported the Dentist did not deny the allegation.

ACTION TAKEN OR RECOMMENDED: The superintendent recommended the Dentist receive a written reprimand from the Division Supervisor.

[illegible]TACHED REPORTS FROM: Hunt-Supt.
J:j
cc: Shafer
Hunt
Lewis

(#92)

John Leitch Jr.
W-79-56

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Date: August 21, 1979

From: Larry D. Staton, Deputy Superintendent

Attention:

Subject: Conversation with Dr. [redacted]
Regarding Use of Abusive Language
to Student Van [redacted].

In Reply - Address to
Attention: ____________________

On 8-20-79 I was contacted by Nancy Kroeker regarding Van [redacted], a student in Maple Cottage and Dr. [redacted] campus Dentist.

Ms. Kroeker advised that Van refused to have dental care, after receiving a couple of shots. I talked with Van and he related to me that he asked Dr. [redacted] how long it was going to take and Dr. [redacted] became angry, using profanity, stating "I don't have to take this kind of shit from you students, maybe other people on campus take this shit, but if you don't want dental care just get your ass out."

I talked with Nancy Kroeker about the incident and she gave me similar information as Van. Nancy also stated that Dr. [redacted] was not in a good mood due to problems in setting up his private practice.

On 8-21-79 I spoke with Dr. [redacted] on the telephone about this matter and he did not deny any of the allegation. He made a statement to the effect that "Do you mean that they can talk that way to me and I can't talk that way to them?" I advised Dr. [redacted] that he would probably not be able to talk to his clients in private practice in that manner and that we were working with children who were not from "normal" home backgrounds; that if he did have a problem with a student verbally abusing him, he was to contact me and we would deal with it, but at no time was he to use verbal abuse in dealing with students. Dr. [redacted] stated that he wasn't trying to make excuses for his behavior, however, he was having some personal problems that day and it was just bad timing with Van.

I am making a copy of Department policy in regard to the use of verbal abuse and having Dr. [redacted] to sign that he has read the policy, since this is not the first report of this type of abuse.

Larry D. Staton
LARRY STATON, DEPUTY SUPERINTENDENT

LS:pm

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

John Laicke, Jr

To: L. E. Rader, Director, Institutions,
Social and Rehabilitative Services

Date: August 29, 1979

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David A. Shafer, Supervisor
Institutional Services

Subject: [redacted], Dentist
Allegations of Abusive Language

In Reply - Address to
Attention: ______________________

Attached is a copy of an investigation by Mr. Larry Staton, Deputy Superintendent, in which there appears to be no denial of the allegation of verbal abuse. The student involved is not particularly upset with Dr. [redacted] but is indicating he will not go back to the dental clinic for further dental needs. Dr. [redacted] is in the process of setting up his own private practice and it is anticipated that he will not remain a full time employee but possibly go to half time status in the near future. There have been several occasions in which Dr. [redacted] has not used good judgment and allowed himself to become engaged in argumentative sessions with students. In a previous incident his instructions were to contact his supervisor in the event of difficulty with a student. In this particular incident this procedure was not adhered to by Dr. [redacted] I find his statement to the effect of not knowing that he could not talk to students the way that he did as not accurate due to previous confrontations of this behavior.

It is my opinion since several of these incidents have taken place that it is appropriate at this point for Dr. [redacted] to receive a letter of reprimand from the Division Supervisor indicating this specific breach of policy. Further, I believe this situation will probably arise again.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph

cc: ✓Advocate General
Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

W-79-82

DATE ISSUE REPORTED 12-11-79
DATE ISSUE RESOLVED

DATE OF REPORT 12-11-79

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-# 4092
PENNY [redacted]

STAFF AND CLASSIFICATION
DR. [redacted] DENTIST

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☒ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☒ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges that on or about 11-6-79 while receiving treatment from Dr. [redacted], he became angry when X-ray films were not accurate; when student attempted to brush some hair out of her eyes, she (over)

FINDINGS OF ALLEGATIONS:

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE:

SIGNATURE: TITLE:

JUVENILE'S RESPONSE & COMMENT: Juvenile released to own Home placement on 12-21-79

☐ Resolved
☐ Not Resolved
☒ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: In view of continuing complaints, a recommendation for termination from employment was made on February 20, 1980.

DR [redacted] resigned eff 4-15-80

John

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☒ Referred to State Office
☐ Report Filed-No Additional Information needed

Attached Reports from:

cc: Shafer
Hunt
Mitchell

Okla. DISRS Issued 11-1-79 BICSCY-1

#33

W-79-82

Allegations Cont'd:

states that Dr. [redacted] grabbed her arm and with excessive grip and force, pulled her arm to her side.

She further states that Dr. [redacted] told her, "You don't take that damn tent off." And he proceeded to issue vitriolic statements about children and lack of support he receives from the institution, although student does not remember specific quotes.

Student alleges that she was refused access to Mr. Staton when she requested such contact from Dr. [redacted] and from his dental assistant. Student refuses to continue further treatment from Dr. [redacted]

It should be noted that this situation came to the advocate defender's attention in response to student's inquiry with A/D as to whether she could have access to an attorney to look into "problems" that she was experiencing. After advising student that she could talk with an attorney, the A/D role and responsibilities were described to the student. She chose to pursue her complaints through the advocate defender with the knowlege that this in no way would interfere with or preclude any decision she might make regarding pursual of the services of an attorney.

RECEIVED
JAN 9 1980
Division of
Institutional
Services

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions,
Social and Rehabilitative Services

Date: January 7, 1979

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David A. Shafer, Supervisor
Institutional Services

Subject: Penny [redacted]
Allegations of Physical and Verbal Abuse.

In Reply - Address to
Attention: ______________________

Attached is a copy of the allegations filed by Penny in regard to allegations against the dentist, Dr. [redacted] Also attached is the investigative summary submitted by Mr. Larry Staton, Deputy Superintendent. Penny's allegations were filed on approximately 12-11-79.

There appears to be very little discrepancies between the conclusion reached in Mr. Staton's report and those in the allegations as stated. There was not a witness present when Dr. [redacted] allegedly took hold of Penny's arm. However, there appears to be a continued violation of verbal abuse. Dr. [redacted] continued disagreement with policy is evident in Mr. Staton's investigation.

On 10-19-79, another grievance was responded to and the recommendation was to combine a previous abusive situation of August 27, 1979 with the one that was current at that time (10-19-79) and a letter of reprimand from the Division Supervisor was recommended. I am unaware of any action as a result of the grievance filed on 10-19-79. Since the possibility exists that no action may have been taken on the two previous grievances, I am recommending that this grievance be combined with the other two and a letter from the Division Supervisor be sent to Dr. [redacted] notifying him of the disciplinary action. If disciplinary action had been taken by the State office on the grievances, I would recommend that on this grievance Dr. [redacted] be referred to the Disciplinary Review Board.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph

Attachment

cc: Advocate General
Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 1-8-80
DATE ISSUE RESOLVED
DATE OF REPORT 1-8-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH
JUVENILES INVOLVED - IS-#
JACK [redacted]

STAFF AND CLASSIFICATION
DR. [redacted], CAMPUS DENTIST

TYPE OF REPORT

☒ Grievance
☐ Policy Violation
☐ Abuse ☐ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☐ Living Conditions
☒ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated
☐ Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student states that on two different occasions, Dr. [redacted] cursed him and threatened physical harm. Student refused to return to Dentist and was placed on total restriction until he sees the Dentist.

FINDINGS OF ALLEGATIONS: See 1-10-80 response form Mr. Staton, Deputy Supt., WSCH.

ACTION TAKEN AT INSTITUTION: Restrictions lifted.

INSTITUTION'S RESPONSE: Please refer to 1-10-80 memo from Mr. Gary Hunt, Supt., WSCH.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: I like the way it is. i like the way my restrictions was lifted

☒ Resolved
☐ Not Resolved
☐ Other

Jack Hill
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The complaint involving the restrictions was settled at the institutional level. The over-all situation involving Dr. [redacted] has been referred to the Division supervisor for further action. In view of continuing complaints, a recommendation for termination from employment was made on February 20, 1980.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

Dr. [redacted] Resigned eff. 4-15-80

☐ Resolved at Inst. Level John Lusk
☐ Unresolved
☐ Other

☒ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

c̄c: Shafer
Hunt
Mitchell

~~Okla.~~ DISRS Issued 11-1-79

BICSCY-1

#98

W-80-6

John Leitka

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director, Institutions, Social and Rehabilitative Services

Date: January 10, 1980

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David A. Shafer, Supervisor
Institutional Services

Subject: Dr. [redacted] - Dentist
Compilation of Grievances

In Reply - Address to
Attention: ______

As you are aware there have been numerous grievances filed on Dr. [redacted] for his abusive language and sometimes physical mishandling of students. Attached are two more grievances filed by students through the Advocate Defender in regard to these same procedures. Also attached is the narrative of the conferences, taken in shorthand, that Mr. Larry Staton, Deputy Superintendent, had with Dr. [redacted] regarding the two latest grievances. In the last grievance answer filed 1-7-80, I recommended three grievances be combined and Dr. [redacted] receive a letter of disciplinary action from the Division Supervisor. In view of these latest two grievances and the resulting attached interview, I feel Dr. [redacted] needs confrontation in the way he is handling students, as well as staff, from a supervisory level of the institution. [redacted]

Dr. [redacted] actions are no longer confined to the verbal abuse of students. I feel continued incidences of the above described behavior will continue. His support of policy is non-existent and I would not overlook the possibility of a physical confrontation of serious nature with a student at any time. Your immediate attention and action is requested.

In regard to restrictions placed on students, Mr. Staton has removed these restrictions. Mr. Staton was unaware of the alleged grievances at the time he placed the students on restriction. These grievances did not surface until a later date.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:ph

Attachments

cc: Advocate General ✓
Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 2-26-80 DATE OF REPORT 2-26-80
DATE ISSUE RESOLVED 3-3-80

ADVOCATE DEFENDER'S REPORT

INSTITUTION WSCH

JUVENILES INVOLVED - IS-# CRYSTAL [redacted]

STAFF AND CLASSIFICATION DR. [redacted] - CAMPUS DENTIST

TYPE OF REPORT

☐ Grievance

☐ Policy Violation

☒ Abuse ☐ Physical ☒ Verbal

☐ Policy Clarification

☐ Other

AREA OF ISSUE

☐ Hearings

☐ Detention

☐ Limited Privileges

☐ Disciplinary Measures

☒ Medical - Dentist

☐ Living Conditions

☐ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated

☐ Not Substantiated

☐ Unfounded

☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges verbal abuse by Dentist, through use of profanity in reference to "damn kids" and "Get the hell out of here."

FINDINGS OF ALLEGATIONS: Referred to Mr. Hunt, Superintendent, WSCH

ACTION TAKEN AT INSTITUTION: Please refer to 3-3-80 memo by Mr. Steve Scott, Deputy Superintendent-Treatment, Whitaker.

INSTITUTION'S RESPONSE: Please refer to 3-3-80 memo by Mr. Gary Hunt, Superintendent - Whitaker.

SIGNATURE: Gary W. Hunt TITLE: Superintendent

JUVENILE'S RESPONSE & COMMENT: Bob talked with me about Mr. Hunt's response. I agree with Mr. Hunt & I think that this will continue as long as Dr. [redacted] is there.

☒ Resolved
☐ Not Resolved
☐ Other

Crystal [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: In view of continuing complaints, a recommendation for termination from employment was made on February 20, 1980.

DR [redacted] resigned eff. 4-15-80

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level

☐ Unresolved

☐ Other

☒ Referred to State Office

☐ Report Filed-No Additional Information needed

Attached Reports from:

cc: Shafer
Hunt
Mitchell

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: March 3, 1980

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David A. Shafer, Supervisor
Institutional Services

Subject: Grievance filed by
Crystal [redacted]

In Reply - Address to
Attention: ____________________

Attached is a grievance filed by Crystal [redacted] through the Advocate Defender in which alleged verbal abuse is to have taken place on 2-25-80. The alleged verbal abuse is substantiated as Dr. [redacted] when interviewed, did not deny his choice of words.

I asked Mr. Steve Scott, Deputy Superintendent in charge of treatment, to look into this situation and visit with the witnesses. Mr. Scott did and his report is attached. This is another incident documented in which Dr. [redacted] violates Department Policy. As indicated in Mr. Scott's report, Dr. [redacted] does not appear to be interested in changing his philosophy in using curse words with students. The dental assistant did not substantiate Dr. [redacted] impression of Crystal's behavior.

Since there appears to have been a previous decision on Dr. [redacted] performance, I am not submitting a recommendation for action. My only suggestion would be a speedy decision at the earliest possible convenience as these incidences will continue as long as Dr. [redacted] refuses to follow prescribed procedure.

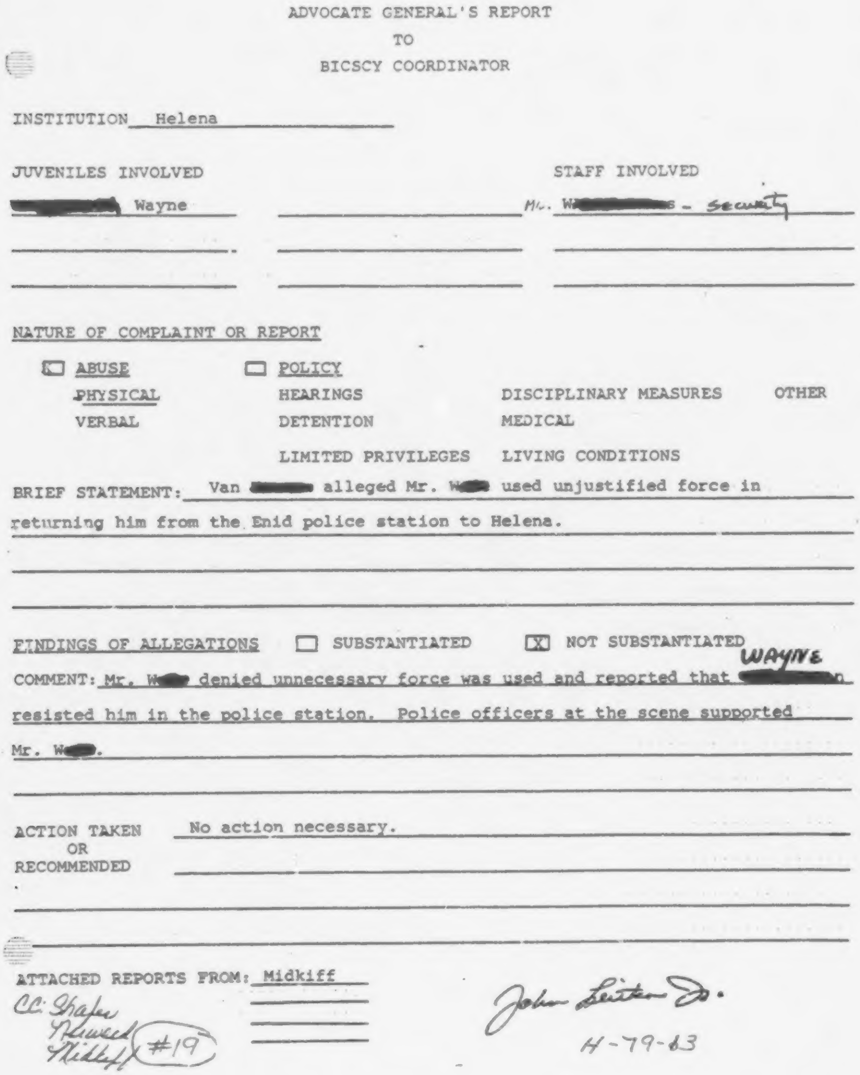
Gary W Hunt
Gary W. Hunt, Superintendent

GWH:ph

Attachment

cc: Advocate General ✓
Advocate Defender

(Example 4.—Mr. W., who was ultimately terminated from the staff at Helena, was repeatedly alleged to have improperly applied restraints.)



ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

INSTITUTION Helena

JUVENILES INVOLVED — STAFF INVOLVED

[redacted] Wayne — Mr. W[redacted] - security

NATURE OF COMPLAINT OR REPORT

☒ ABUSE ☐ POLICY

PHYSICAL	HEARINGS	DISCIPLINARY MEASURES	OTHER
VERBAL	DETENTION	MEDICAL	
	LIMITED PRIVILEGES	LIVING CONDITIONS	

BRIEF STATEMENT: Van [redacted] alleged Mr. W[redacted] used unjustified force in returning him from the Enid police station to Helena.

FINDINGS OF ALLEGATIONS ☐ SUBSTANTIATED ☒ NOT SUBSTANTIATED

COMMENT: Mr. W[redacted] denied unnecessary force was used and reported that WAYNE [redacted] resisted him in the police station. Police officers at the scene supported Mr. W[redacted].

ACTION TAKEN OR RECOMMENDED No action necessary.

ATTACHED REPORTS FROM: Midkiff

CC: Shafer
Howard
Midkiff
#19

John [illegible] Jr.
4-19-83

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L.E. Rader, Director of Institutions, Social and Rehabilitative Services
Date: June 22, 1979

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Commuity
Services for Children and Youth

Subject: Abuse complaint of Wayne [redacted]
[redacted] Sp.

[redacted]
Attention: [redacted]

On the morning of 6-11-79 Wayne [redacted] complained to me that he had been roughed up by Mr. [redacted], member of the security unit, when he was picked up at the Enid City Jail. Wayne claimed that Mr. [redacted] had thrown him against the wall when he placed the handcuffs on him. Wayne stated that he had asked to make a phone call to his wife who lives in Enid before returning to Helena, and the security man had refused to let him. At this point Wayne stated that he told Mr. [redacted] he would not go with him and started to return to his cell. Mr. [redacted] then grabbed him and threw him against the wall. According to Wayne there was no justification for the force that was used.

A report from Mr. [redacted] had been given to me earlier on the morning of 6-11-79, and this report stated that Wayne had attempted to strike him with his closed fist. At this point Wayne was pushed against the wall and handcuffs applied.

Statements were secured from Mr. Norman Joslin, city jailer, and Officer George Puckett, Enid Police Department. Mr. Joslin's statement contained no significant information concerning the above incident, but that of Officer Puckett substantiated the sequence of events contained in the report of Mr. [redacted]. Officer Puckett stated, "At this time the guard asked the subject [redacted] to wait a minute while [redacted] started walking away from the cell area. The guard told [redacted] to stop and grabbed hold of [redacted] arm at which time [redacted] stated that he wasn't going, and at that time drew back his fist as if to strike the guard. At this time the guard pushed [redacted] up against the south wall and handcuffed [redacted]."

On the basis of the above information it is my conclusion that no abuse took place and that there is no basis for the complaint. It appears that Wayne at least attempted to hit Mr. [redacted] and that he was refusing to allow the handcuffs to be placed on him for the return to Helena.

cc: Tommy Norwood, Superintendent
Helena State School for Boys

A.D. File

VOCATE GENERAL'S REPORT

H-79-120

TO

BICSCY COORDINATOR

INSTITUTION Helena

September 28, 1979

JUVENILES INVOLVED - IS-#		STAFF INVOLVED-CLASSIFICATION
[redacted], Ricky - [redacted]		Ms. W[redacted], [redacted]

NATURE OF COMPLAINT OR REPORT

☒ ABUSE ☐ POLICY ☐ OTHER

Physical	Hearings	Disciplinary Measures	
Verbal	Detention	Medical	
	Limited Privileges	Living Conditions	

BRIEF STATEMENT: Juvenile placed in restraints while in detention on 8-12-79. Complained excessive force was used in placing him in restraints and that restraints were too tight.

FINDINGS OF ALLEGATIONS ☐ Substantiated ☒ Not Substantiated ☐ Unfounde

COMMENT: Juvenile acknowledged resisting the placement of the restraints. AD felt excessive force was not used.

ACTION TAKEN OR RECOMMENDED: None recommended

ATTACHED REPORTS FROM: Midkiff

LJ:JHB:j
cc: Shafer
Norwood
Midkiff

#25

John Leitch Jr.

JHB

H-79-120

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

L. E. Rader, Director of Institutions, Date: September 6, 1979
Social and Rehabilitative Services

From: Gary Midkiff, Advocate-Defender
Helena State School for Boys

Attention: Chase Gordon, Coordinator
Bureau of Institutions and Community
Services for Children and Youth

Subject: Abuse complaint of Rickey [redacted]
(H-4190)

~~[illegible]~~
Sp. Attention: ~~John Leitka, Advocate General~~

Rickey [redacted] claims that Mr. [redacted] W[redacted] security officer, struck him while W[redacted] was in the process of attempting to restrain him.

On the evening of 8-12-79 Mr. Norwood gave approval for the staff to place restraints on Rickey, who was in the Dodge House and had been creating a disturbance there. Rickey claims that he had been talking loudly but denies staff allegations that he had been banging on his door. Rickey states that he began yelling at Dodge House staff, several security officers and some recreational staff because they were "playing around the food." Rickey was never able to define exactly what they were doing. Mr. Southerland, houseparent, came back to Rickey's room and threatened him with restraints if he did not quieten down. He asked Rickey to make the choice, and Rickey did not answer. Mr. Southerland told security to go ahead and place the restraints on him.

Rickey maintaines at this point that Mr. W[redacted] came into the room and tried to grab him. Rickey slipped the grasp and moved to Mr. W[redacted] side. Mr. W[redacted] then struck him with his elbow and lower arm and shoved him against the wall of the room. Rickey says he then fought back but was subdued by the others present.

Rickey also complained that when the handcuffs were placed on his wriste, they were closed too tight so that they cut his wrists. He showed me some superficial cuts on his wrists which could have been caused by the cuffs.

While there may be some room to question the need for restraints in this particular instance, there does not appear to have been excessive force used in placing Rickey in restraints. It appears that Mr. W[redacted]s pinning Rickey against the wall with his arm was appropriate although it may have been done with more force than Rickey liked. It is my conclusion that there is no basis for an abuse complaint - given the fact that it was decided to place him in restrainst.

There does appear to be evidence that the handcuffs (metal variety) were placed on tighter than necessary. The superficial cuts on Rickey's wrists would have been consistent with the placement of the handcuffs. However, I know of no solution to this problem since it is difficult to avoid this when placing handcuffs on someone who is resisting. If they are not resisting, there is a question of whether they should be continued in restraints.

cc: Tommy Norwood, Superintendent
Helena State School for Boys

Gary Midkiff, Advocate Defender

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 5/12/80 DATE OF REPORT 5/12/80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION HELENA
JUVENILES INVOLVED - IS-[redacted]

[redacted] Robert

STAFF AND CLASSIFICATION

Mr. W[redacted], [redacted] Security Officer II

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☒ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☒ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Mr W[redacted] alleged to have used excessive force in placing handcuffs on above noted student.

FINDINGS OF ALLEGATIONS: Information gathered from staff and student tends to substantiate the allegation.
- see attached memo -

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Mr. W[redacted] has been repeated told not to use excessive force. I am recommending his termination

SIGNATURE: TITLE: Supt

JUVENILE'S RESPONSE & COMMENT:

☒ Resolved
☐ Not Resolved
☐ Other

Robert [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: The allegation that the "cuffs" were deliberately applied too tightly could not be discounted or substantitated. The superintendent planned to recommend termination. The employee requested and was approved to transfer to another institution. Employee resigned eff 6-15-80.

John Leiter

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level	☐ Referred to State Office
☐ Unresolved	☒ Report Filed-No Additional Information needed
☐ Other	

Attached Reports from:

DISRS Issued 11-1-79 H-80-77 BICSCY-1

#102

H-80-78

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 5/19/80
DATE ISSUE RESOLVED
DATE OF REPORT 5/19/80

ADVOCATE DEFENDER'S REPORT

INSTITUTION HELENA
JUVENILES INVOLVED - IS-# H 4595

[redacted], Angelo

STAFF AND CLASSIFICATION
MR. W
[redacted] Security Officer II

TYPE OF REPORT

☐ Grievance
☒ Policy Violation
☐ Abuse ☐ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☒ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☒ Substantiated
Not Substantiated
☐ Unfounded
☐ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges that Mr W [redacted] used excessive force with use of restraints and that he used a belly chain in restraining him.

FINDINGS OF ALLEGATIONS: Information secured by A.D. indicates that restraints were placed on the student tight enough that breathing appeared labored and A.O.D. had to have W[redacted] loosen them. Student restrained with chain.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: Mr. W[redacted] was cautioned of the excessive force & I am recommending his termination.

SIGNATURE: TITLE: Supt

JUVENILE'S RESPONSE & COMMENT: Before the issue could be resolved Mr W[redacted] was transfered to the Rader Center (D @ E). It is the understanding of the A.D. that the matter is referred to Mr Campbell.

☐ Resolved
☐ Not Resolved
☐ Other

SIGNATURE

ADVOCATE GENERAL'S COMMENTS:
The allegation that restraints were applied too tightly was supported by a staff member. The employee transferred to another facility and later resigned effective 06-15-80. Since the employee is no longer employed, no further action will be (over)

John Leith

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☒ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

Okla. DISRS Issued 11-1-79

BICSCY-1

#48

H-80-78

recommended.

As a result of the above incident, it was learned a "belly chain" had been used as part of the restraints.

The S.O. Program Supervisor reported "chains" were provided by a transportation officer.

Apparently the chains were removed from the campus and were not actually seen by the S.O. Program Supervisor or the Institution Administrative Staff. All parties involved were informed the use of chains were not authorized and prohibited by the Department.

Attached is a detailed report by the S.O. Program Supervisor.

RECEIVED
MAY 29 1980
Dept. of HUMAN
SERVICES

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To:	L. E. Rader, Director Department of Human Services	Date:	May 22, 1980
From:	R. N. Lamont, Advocate Defender Helena State School for Boys	Attention:	Chase Gordon, Co-ordinator BICSCY John Leitka, Advocate General
Subject:	[redacted], Angelo ([redacted]) USE OF CHAINS IN RESTRAINT	In Reply - Address to Attention:	

On the evening of 5-14-80, while the above noted was out of control, Mr. [redacted] used a body chain in the process of restraining student [redacted]

According to information gathered by the Advocate Defender, the student, a resident of the Limited Privilege Cottage was banging on his door and was being generally disruptive. YGS Terry Gray apparently called in Cottage Co-ordinator Ron Norton to act as a crisis team leader in an effort to calm the student down. Mr. Norton was apparently unsuccessful and as a result requested and received permission for the superintendent to restrain the student.

Apparently Angelo [redacted] offered little resistance to being restrained and during the process was held by Mr. Norton. According to the student and Mr. Norton, the restraints were placed on Angelo [redacted] by Security Officer II, Mr. [redacted]. Mr. Norton stated that when he released [redacted] he noted that Mr. [redacted] had placed him in a belly chain, handcuffs and leather restraints. The handcuffs were around the wrists, the leather restraints around his ankles, the belly chain was around his waist and through the cuffs and leather restraints. He was bowed up in such a way that his hands and feet were drawn towards each other and they were secured together by the belly chain, which was around his waist.

According to Mr. Norton, the restraining was so tight that the student was having significant trouble breathing. Mr. Norton ordered that the student be restrained in a more reasonable fashion. It is noted that the student was held in this fashion for approximately five minutes as [redacted] had left the area and had to be called back to loosen the restraints.

Mr Norton stated that he did not order the use of the chains. Mr. Norwood stated that he did not authorize the use of the chain on campus.

It would appear from what the Advocate Defender can determine, Mr. [redacted] may have brought the chain onto the campus. According to Mr. Norton, he was the only person who could have brought the chain to the cottage. Information from Mr. [redacted] indicates, that according to him, approval for the use of these restraints was secured from Deputy Superintendent Tom Jaworsky.

Basicly the allegation from the student is that the chain was used and it was tightened in such a manner that it was potentially injurious to himself.

The matter is referred to the superintendent for his disposition.

RNL:ln

Not
suggested
copy made
[illegible]

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 5/16/80
DATE ISSUE RESOLVED

DATE OF REPORT 5/20/80

ADVOCATE DEFENDER'S REPORT

INSTITUTION HELENA
JUVENILES INVOLVED - IS-# [redacted]

[redacted], Scott

STAFF AND CLASSIFICATION

W[redacted]

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☒ Disciplinary Measures	☒ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges that he was placed in handcuffs so tightly that they cut off circulation in his hands and that they cut into his wrists. A.D. confirmed marks on wrists in presence of A.G. on 5/16/80

FINDINGS OF ALLEGATIONS: Student has cuts on wrists
The restraints were apparently so tight as to cause a loss of circulation and to cause them to cut into his wrists.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE: I am recommending investigation of abuse by Mr [redacted] and some other assignment for this employee

SIGNATURE: Tommy [illegible] TITLE: Supt

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☒ Not Resolved
☐ Other

Scott [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Before an "on campus" inquiry could be made by the AG's office, the employee requested and was approved to transfer to another institution; therefore, further inquiry into the matter was not warranted.

John Leitch

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

(#49)

H - 80 - 82

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Department of Human Serivces

Date: May 22, 1980

From: Robert N. Lamont, Advocate Defender
Helena State School for Boys

Attention: Chase Gordon, Co-ordinator BICSCY
John Leitka, Advocate General

Subject: [redacted], Scott [redacted]
ALLEGED ABUSE

In Reply - Address to
Attention: ____________________

The above noted student alleges that he was physically abused by Security Officer [redacted]. Apparently the student was somewhat loud and agressive in the detention area. As a result of his inability and/or unwillingness to control himself, it was deemed advisable to restrain the student.

Mr W. Mr. G

The student was apparently subdued by [redacted] and [redacted] YGS. Apparently while Mr. G[redacted] held the student W[redacted] applied the handcuffs. The student alleges that the cuffs were placed on him so tightly that they cut off the circulation to his hands. He, at this time, has abrasions on each wrist at about the area where the cuffs would have been placed.

In discussing this with Mr. G[redacted] he indicated that once the cuffs were placed on the student he agressively fought against the restraints. He felt that this may have caused the abrasions. Mr. G[redacted] did indicate, however, that the cuffs had to be loosened on the student as they were to tight.

The matter is referred to the superintendent for his consideration.

RNL:ln

To: D Shafer

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: May 29, 1980

From: Tommy Norwood, Superintendent
Helena State School for Boys

Attention: David Shafer, Supervisor, BICSCY

Subject: USE OF RESTRAINTS BY [redacted] Mr. W

In Reply - Address to
Attention:

It is come to my attention that Mr. [redacted], Security Officer II, has used excessive force in the restraint of students on 05-11-80, 05-14-80 and 05-15-80. The students involved were Robert [redacted], Angelo [redacted] and Scott [redacted]. Also, it was noted that he used chains in the restraint process. It is also been noted that on 05-20-80, Mr. [redacted] was verbally abusive to staff members.

First, at no time on the Helena State School campus have I authorized chains. The school does not possess any chains and it has been clear that policy does not allow for such. Mr. [redacted] brought these on campus without authorization and without my knowledge. In the future, if necessary, we will search employees to keep this from recurring.

Secondly, Mr. [redacted] has been repeatedly reprimanded for his inappropriate actions but refuses to act in the appropriate manner as a professional employee. Training will be maintained with the Security Staff to try and overcome this problem.

On November 9, 1979, I recommended to the Director that Mr. [redacted] be terminated. I am again recommending this action. His actions should be investigated and if the A.D.'s allegations are found to be true, he should be terminated.

TN:bjb
cc: ~~Chase Gordon~~
D & E Center
[redacted]
Personnel

Tommy Norwood

Please see me on this case

C. INCIDENTS OF ABUSE WERE NOT CONSISTENTLY SUBJECTED TO THOROUGH INVESTIGATION

In a substantial number of cases, reports of abuse did not receive thorough and meaninglful investigation. The Subcommittee recognizes that it may be difficult to determine the validity of each allegation of abuse, particularly when the primary evidence available to staff investigators is the conflicting testimony of the accused and his accusor. Indeed, in many cases, investigations were discontinued because no additional evidence was available. In a number of cases the responsible departmental officials concluded investigations without making use of polygraph examinations that, according to Departmental policy, are to be used as an added source of information in cases where the allegations could lead to "adverse personnel action."[1] More troublesome, however, is the fact that allegations were dismissed as unsubstantiated in some cases where the physical evidence indicated serious injury to a juvenile. In a number of cases, the Department recognized that the juvenile sustained injury but justified it on the grounds that the staff employed necessary force. Such findings question the validity of the entire Advocate Defender program.

Documentation of the Department's failure to respond adequately to reported abuses follows:

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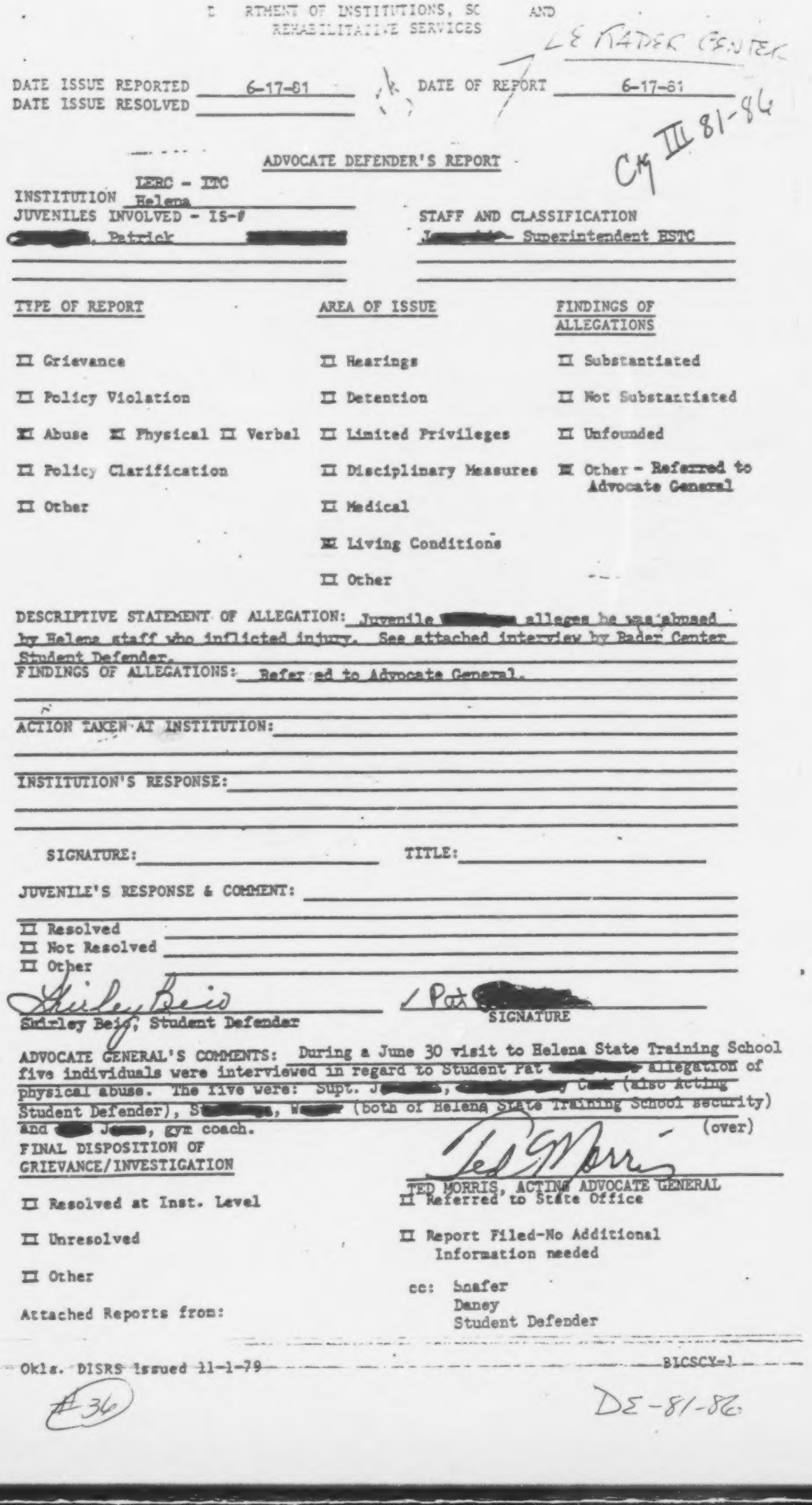
[1] For example, in a memorandum dated Mary 10, 1979, from R. Chase Gordon to L. E. Rader, Gordon notes: "Periodically we have allegations made against members of institutional staff which, if true, would be grounds for adverse personnel action. Many times these allegations cannot be proved or disproved by an investigation. Under these circumstances, it has been our past policy to recommend to your office that polygraph test (sic) be arranged for the persons involved."

(EXAMPLE 1.—The juvenile alleged he was abused by the staff at Helena as they removed him from the detention center. The investigation failed to follow up information that the juvenile had cut and bleeding wrists from excessively tightened restraints.)



D RTMENT OF INSTITUTIONS, SC AND
REHABILITATIVE SERVICES

LE RADER CENTER

DATE ISSUE REPORTED 6-17-81
DATE ISSUE RESOLVED

DATE OF REPORT 6-17-81

CK III 81-86

ADVOCATE DEFENDER'S REPORT

INSTITUTION LERC - ITC Helena

JUVENILES INVOLVED - IS-#
[redacted], Patrick [redacted]

STAFF AND CLASSIFICATION
J[redacted] - Superintendent HSTC

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☒ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other - Referred to Advocate General

DESCRIPTIVE STATEMENT OF ALLEGATION: Juvenile [redacted] alleges he was abused by Helena staff who inflicted injury. See attached interview by Rader Center Student Defender.

FINDINGS OF ALLEGATIONS: Refer ed to Advocate General.

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE:

SIGNATURE: TITLE:

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☐ Not Resolved
☐ Other

Shirley Beid
Shirley Beid, Student Defender

Pat [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: During a June 30 visit to Helena State Training School five individuals were interviewed in regard to Student Pat [redacted] allegation of physical abuse. The five were: Supt. J[redacted], [redacted] (also Acting Student Defender), S[redacted], W[redacted] (both of Helena State Training School security) and [redacted] J[redacted], gym coach. (over)

Ted Morris
TED MORRIS, ACTING ADVOCATE GENERAL

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☐ Report Filed-No Additional Information needed

cc: Shafer
Daney
Student Defender

Attached Reports from:

Okla. DISRS Issued 11-1-79 BICSCY-1

#36

DE-81-86

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Lloyd E. Rader, Director
Department of Human Services

Date: June 17, 1981

From: Shirley Beio, Student Defender
Lloyd E. Rader Center

Attention: Wesley Rucker, DICSC
Spec. Attn: John Leitka

Subject: [redacted], Patrick
[redacted]

In Reply - Address to
Attention: Shirley Beio

Student Defender Beio was approached by subject juvenile who requested her assistance in contacting an attorney. Juvenile [redacted] stated he wanted to press charges against the individuals listed:

Mr. J[redacted], Superintendent, Helena State Training School (HSTS)
Mr. D[redacted] and Mr. S[redacted], Security, HSTS
Mr. Z[redacted], Cottage Manager, LP Cottage, HSTS
Mr. S[redacted], Cottage Manager, HSTS
The gym coach.

Juvenile [redacted] stated the above named individuals entered his room and removed him from his bed and took him to another cottage. In the process, juvenile [redacted] was hit with a flashlight in his collarbone area and bruised about the shoulderblade and upper arm areas. Juvenile [redacted] stated that some HSTS residents were attempting AWOL and that he had known of their plans but was not a party to the AWOL attempt.

Juvenile [redacted] stated that the above named staff was involved in the capture of the escapees and afterwards entered his room—apparently angry because he had not "narc'd" on them (the escapees). Juvenile [redacted] stated that he was in bed, although not asleep, he was quiet. Juvenile [redacted] was "yanked" from his bed and the staff members hit and pulled him out.

Juvenile [redacted] PATRICK stated that Mr. S [redacted] had been drinking. When asked what made [redacted] think S[redacted] had been drinking, [redacted] PATRICK replied he smelled it. Juvenile [redacted] stated he thought [redacted] had also been drinking because his personality (attitude) was so much different (than usual).

Juvenile [redacted] stated that PATRICK residents, Mike [redacted] and Charles [redacted] were witnesses to the activity. [redacted] PATRICK said that YGS Waldo Schmidt saw the injury manifestations. [redacted] stated he asked to see the Defender (Mr. Pedigo) and also saw the nurse. [redacted] PATRICK stated Mr. Pedigo visited briefly (about a minute) and left for two weeks with a military summer camp. [redacted] PATRICK stated that the nurse had no sympathy and her attitude was that there was nothing wrong with him. [redacted] PATRICK further stated Ms. Thomas, Social Worker, photographed his injuries.

This memo is therefore to request assistance through the Advocate General in the investigation of this abuse complaint. The Student Defender will provide juvenile [redacted] with the address of his committing court in Oklahoma County, as well as the name of his judge. Your assistance is appreciated.

Shirley Beio
Shirley Beio, Student Defender

SB:hg

cc: D. Shafer
H. Daney
S. Beio
B. Freeman
J. Beene

Mr W.

Statement from [redacted] concerning allegations in -ving Pat [redacted]:

The handcuffs were not double locked and were applied in a decent manner. Pat kept trying to jerk out of them, so I tightened them down some more. I went in and told him to get up, we were going to CMC, and he got up and put on his clothes, he then reached for his belt and was told he didn't need it and he said "it's my belt, I'll take the son-of-a-bitch with me." At that time Jim [redacted] arrived there, Patrick [redacted] would not come out of his cubicle, and went up against his window as far as possible. Jim got a hold of him, started out of the room, and he hit me with his fist and attempted to break away from Jim. Mick [redacted] then assisted Jim and laid Pat on the floor and I put the handcuffs on. I then bought him out of the cottage, he continued to cuss and try to jerk out of the handcuffs and away from me. I tightened the cuffs, the [redacted] and MR [redacted] arrived to assist me. I then took the student on to CMC, took handcuffs off and they had scratched his wrist. [redacted] took student to drinking fountain, and placed Pat's arm under the water to wash the blood off. The student was then stripped searched and then taken to the corner office for counseling.

I received a bruise on the left forearm form being hit while in the cottage. I also received a cut on my right hand from being hit by the hancuffs while trying to control the student. The student was out of control, and making threats and being verbally abusive.

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: FILE

Date: July 20, 1981

From: John Leitka, Advocate General
D.I.C.S.C.

Attention:

Subject:

In Reply—Address to
Attention:

Supplemental Statements by Advocate General

Upon arriving at D & E from Helena, a juvenile made the following allegations involving Helena staff:

(1) "Yanked" out of bed because he didn't "narc" on a peer who had gone AWOL.
(2) Struck on the collarbone with a flashlight.
(3) Questioned attitude and lack of sympathy of nurse.
(4) Thought Mr. [redacted] had been drinking.

1. Charles [redacted] - Juvenile, Charles [redacted] - Juvenile, and Mr. [redacted] - Security all claimed Ray [redacted] was fully clothed at approximately 12:45 PM, but returned to bed upon being seen by Mr. [redacted].

2. Several residents and staff witnesses could not substantiate the juvenile had been struck with a flashlight.

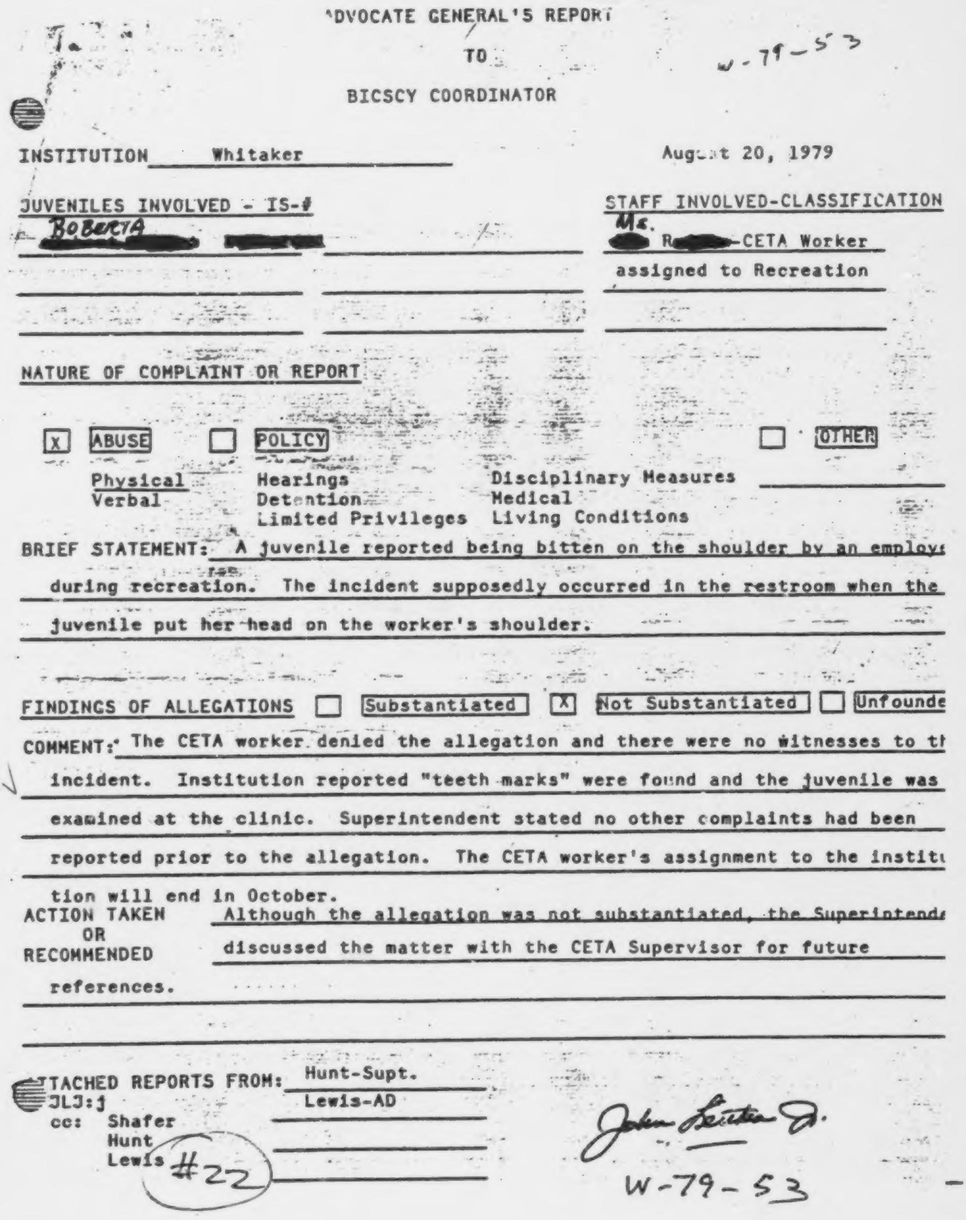
3. Although it was not possible to determine the nurse's attitude or lack of sympathy, institutional records indicate the juvenile was seen at 11:15 PM on 5-22-81. The nurse noted possible discoloration area on right shoulder - 10 cm x 2 cm, small red area on left

4. Staff denied the employee had been drinking while three students reportedly smelled alcohol on Mr. [redacted] breath. Due to conflicting statements by staff and students, the allegation could not be substantiated.

John Leitka, Advocate General, DICSC.

JL:jbr

(EXAMPLE 2.—In this case a juvenile was allegedly bitten by CETA workers temporarily assigned to the Whitaker school. Despite the fact that bite marks were found on the juvenile's shoulder and that the school superintendent indicated in his report that the behavior of the employee involved "has been described as rather juvenile" at times, the charges of abuse were not substantiated. The employee was merely "counseled" about her behavior and received no official reprimand.)



'DVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

w-79-53

INSTITUTION Whitaker

Aug..t 20, 1979

JUVENILES INVOLVED - IS-#

BoBERTA
[redacted] [redacted]

STAFF INVOLVED-CLASSIFICATION

Ms.
[redacted] R[redacted]-CETA Worker
assigned to Recreation

NATURE OF COMPLAINT OR REPORT

☒ ABUSE ☐ POLICY ☐ OTHER

Physical
Verbal

Hearings
Detention
Limited Privileges

Disciplinary Measures
Medical
Living Conditions

BRIEF STATEMENT: A juvenile reported being bitten on the shoulder by an employ during recreation. The incident supposedly occurred in the restroom when the juvenile put her head on the worker's shoulder.

FINDINGS OF ALLEGATIONS ☐ Substantiated ☒ Not Substantiated ☐ Unfounde

COMMENT: The CETA worker denied the allegation and there were no witnesses to t incident. Institution reported "teeth marks" were found and the juvenile was examined at the clinic. Superintendent stated no other complaints had been reported prior to the allegation. The CETA worker's assignment to the instit tion will end in October.

ACTION TAKEN OR RECOMMENDED: Although the allegation was not substantiated, the Superintend discussed the matter with the CETA Supervisor for future references.

ATTACHED REPORTS FROM: Hunt-Supt.
Lewis-AD

JLJ:j
cc: Shafer
Hunt
Lewis

#22

W-79-53

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director Institutions, Social and Rehabilitative Services

Date: 8-13-79

From: Gary W. Hunt, Superintendent
Whitaker State Children's Home

Attention: David Shafer, Supervisor
Institutional Services

Subject: [redacted], Roberta IS-W-4041
Allegations of Physical Mistreatment

In Reply - Address to Attention:

Attached you will find a copy of the Advocate Defender's report which indicates Roberta was bitten on the shoulder by Ms. [redacted] R[redacted], CETA summer worker. Also, you will find attached the investigation report which was completed by Mr. Jason Brand, Institutional Program Supervisor along with Ms. R[redacted] report denying allegations.

After reviewing all available information it is very difficult to determine what took place on the evening of 7-27-79. With the exception that Roberta did receive a bite mark on her shoulder. It should be pointed out that one of the young ladies interviewed, Cindy [redacted], has had difficulty with [redacted]. In my opinion Cindy is continually complaining and attempting to file numerous grievances with the Advocate Defender. Cindy has had a habit of trying to place staff members in vulnerable positions where they may be reprimanded. Therefore, I question Cindy's reliability in this matter, especially since Ms. R[redacted] signed statement indicates her problems with Cindy. There has been some instances when Ms. R[redacted] behavior has been described as rather juvenile; however, this is the first allegation of any serious nature.

Mr. Larry Henson, CETA supervisor, will be contacted on 8-13-79 in regard to this incident for the purpose of informing him of the allegation. I am not making any specific recommendation in regard to this matter as I feel I cannot unqualifiedly substantiate the allegations. Therefore, this is submitted for information and no further recommendation for action seen as necessary.

Gary W. Hunt
Gary W. Hunt, Superintendent

GWH:cjm

Attachments

cc: Advocate Defender
Advocate General

GH

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions Social and Rehabilitative Services.

Date: August 10, 1979

From: Bascom Lewis, Advocate Defender Whitaker State Children's Home

Attention: Chase Gordon, Coordinator BICSCY

Special Atten: John Leitka

In Reply - Address to Attention:

Subject: ROBERTA [redacted]: ALLEGATION OF HAVING BEEN BITTEN BY [redacted], RECREATION WORKER.

The advocate defender was informed on 8-1-79 that a physical encounter had occurred between Roberta [redacted] and recreation worker, [redacted]. Ms. R. Roberta was interviewed on 8-2-79. At that time she stated that she had been bitten on the shoulder by [redacted], while at activities in the canteen on 7-27-79, somewhere between 6 and 7 P.M. Roberta described the incident as having occurred in the rest room where she was alone with Ms. [redacted]. She stated that Ms. [redacted] came into the rest room and said, "God, I'm tired," and placed her head on Roberta's shoulder. Roberta went on to say that she patted [redacted] on the back a couple of times and then [redacted] bit her on the shoulder. She stated that she was surprised by the incident and was at a loss as to how to react so she immediately left the rest room, but remained at activities until time to return to the cottage. Upon her return to the cottage she reported the incident to her houseparent, Mrs. Miller, and the supervisor on duty, Ruth Murray, was called to the cottage to examine the marks left on her shoulder.

Roberta also indicated, during the interview, that she had had another encounter with Ms. [redacted] the following day, again in the rest room at activities. She stated that she was in the rest room and [redacted] came in and began asking her why she was lying about having been bitten and physically prevented her from leaving the rest room by standing between her and the door. Roberta indicated that eventually another student, Tammy [redacted], came into the rest room, which gave her an opportunity to get out the door, which she did.

Subsequent to the interview with Roberta, Mrs. Murray, who was the supervisor on duty the evening of the initial incident, was interviewed. She stated that Mrs. Miller had called her to the cottage where she observed the marks on Roberta's left shoulder. She stated that she recommended that the student be sent to the Clinic and asked Mrs. Miller to write a student accident report. Mrs. Murray said from her observation of Roberta's shoulder, she could see that there were teeth marks and that the skin was bruised and broken. She also indicated that she asked Roberta how it happened and received the reply that Ms. R. [redacted] had put her head on Roberta's shoulder, while at activities, and bit her. A copy of the report prepared by Mrs. Miller is attached. It describes the injury as having been a bite where the skin was broken and bruised. Under cause on the accident form, Mrs. Miller wrote that the recreation worker, [redacted] Ms. R. bit Roberta on the left shoulder.

Roberta had mentioned that immediately after the initial incident, as she returned to the game room in the canteen, she had spoken with two of her friends about the incident. These students, Cindy [redacted] and Terry [redacted], were interviewed also.

Cindy indicated that Roberta came from the rest room, visibly upset, and said to her "look what Ms R [redacted] did to me, she leaned over and bit me." Cindy also stated that Roberta showed her the marks on her shoulder and described a bite with bruised and broken skin.

Terry stated that a few minutes later Roberta showed her the bite and told her that Ms R [redacted] had bit her. Both girls stated that they had gone to activities from the cottage and that no incident that they were aware of had occurred prior to their leaving for activities. Cindy stated that when Roberta had told her about the bite, it was approximately ten minutes until activities were to be over. The student that Roberta mentioned as having been present during the second encounter with Ms. R [redacted], Tammy [redacted], was also interviewed. She stated that she walked into the rest room and found Ms R [redacted] and Roberta in there. She stated that Roberta said "Thanks, Tammy." and then said "Ms R [redacted], why don't you just leave me alone." and then left the rest room. Tammy stated that Ms R [redacted] looked at her and said "What's the matter with her?" Tammy indicated that her response was "I guess she's still mad because you bit her." Ms R [redacted] replied "I didn't bite her." Then they all left the rest room area.

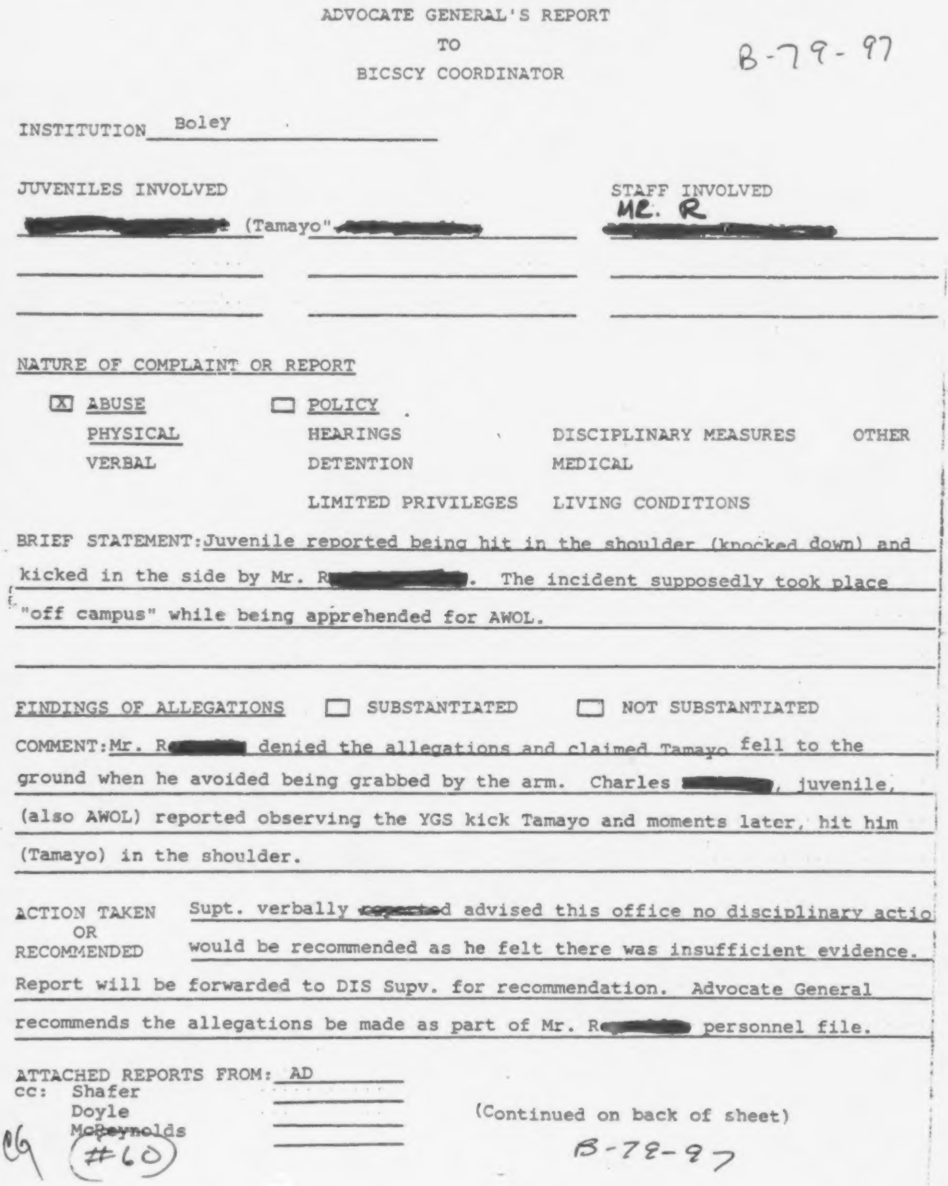
It is my understanding that Ms. R[redacted], in her conversation with the program supervisor, has denied that the incident occurred. Mr. [illegible]t has indicated that the program supervisor will discuss appropriate behaviors with Ms. R[redacted] and indicate that further instances of this type of allegation will result in stronger measures.

It should be noted that Ms. R[redacted] works at Whitaker through the C.E.T.A. program and is not a state employee. Mr. Hunt also stated that her supervisor in the C.E.T.A. program will be made aware of the circumstances.

Bascom Lewis
BASCOM LEWIS, ADVOCATE DEFENDER

JBL:pm
Attachment

(**Example** 3.—In this case, an employee confronted with a series of allegations, refused to take a polygraph exam. He claimed to have no "faith in the test." Despite the previously stated Departmental policy, the charges of abuse were found to be unsubstantiated. The employee received "no disciplinary action.")



ADVOCATE GENERAL'S REPORT
TO
BICSCY COORDINATOR

B-79-97

INSTITUTION Boley

JUVENILES INVOLVED

[redacted] (Tamayo" [redacted]

STAFF INVOLVED

MR. R [redacted]

NATURE OF COMPLAINT OR REPORT

☒ ABUSE
PHYSICAL
VERBAL

☐ POLICY
HEARINGS
DETENTION
LIMITED PRIVILEGES

DISCIPLINARY MEASURES
MEDICAL
LIVING CONDITIONS

OTHER

BRIEF STATEMENT: Juvenile reported being hit in the shoulder (knocked down) and kicked in the side by Mr. R[redacted]. The incident supposedly took place "off campus" while being apprehended for AWOL.

FINDINGS OF ALLEGATIONS ☐ SUBSTANTIATED ☐ NOT SUBSTANTIATED

COMMENT: Mr. R[redacted] denied the allegations and claimed Tamayo fell to the ground when he avoided being grabbed by the arm. Charles [redacted], juvenile, (also AWOL) reported observing the YGS kick Tamayo and moments later, hit him (Tamayo) in the shoulder.

ACTION TAKEN OR RECOMMENDED: Supt. verbally ~~reported~~ advised this office no disciplinary actio would be recommended as he felt there was insufficient evidence. Report will be forwarded to DIS Supv. for recommendation. Advocate General recommends the allegations be made as part of Mr. R[redacted] personnel file.

ATTACHED REPORTS FROM: AD

cc: Shafer
Doyle
McReynolds

CG (#60)

(Continued on back of sheet)

B-78-97

The Advocate General interviewed Tamayo [redacted]-juvenile, Charles [redacted] juvenile witness, and Mr. [redacted] R[redacted]-YGS at Boley on June 21, 1979.

Tamayo [redacted] stated he was found in a field after running away by Mr. R[redacted]. Tamayo (new resident) stopped running when the YGS shouted "halt" as he thought employees carried guns when looking for AWOLS.

Tamayo claimed Mr. R[redacted] knocked him to the ground by hitting him in the shoulder. While on the ground, the juvenile alleged being kicked in the side and hip area. No further physical contact was made getting up from the ground. The juvenile was willing to take a polygraph test if necessary.

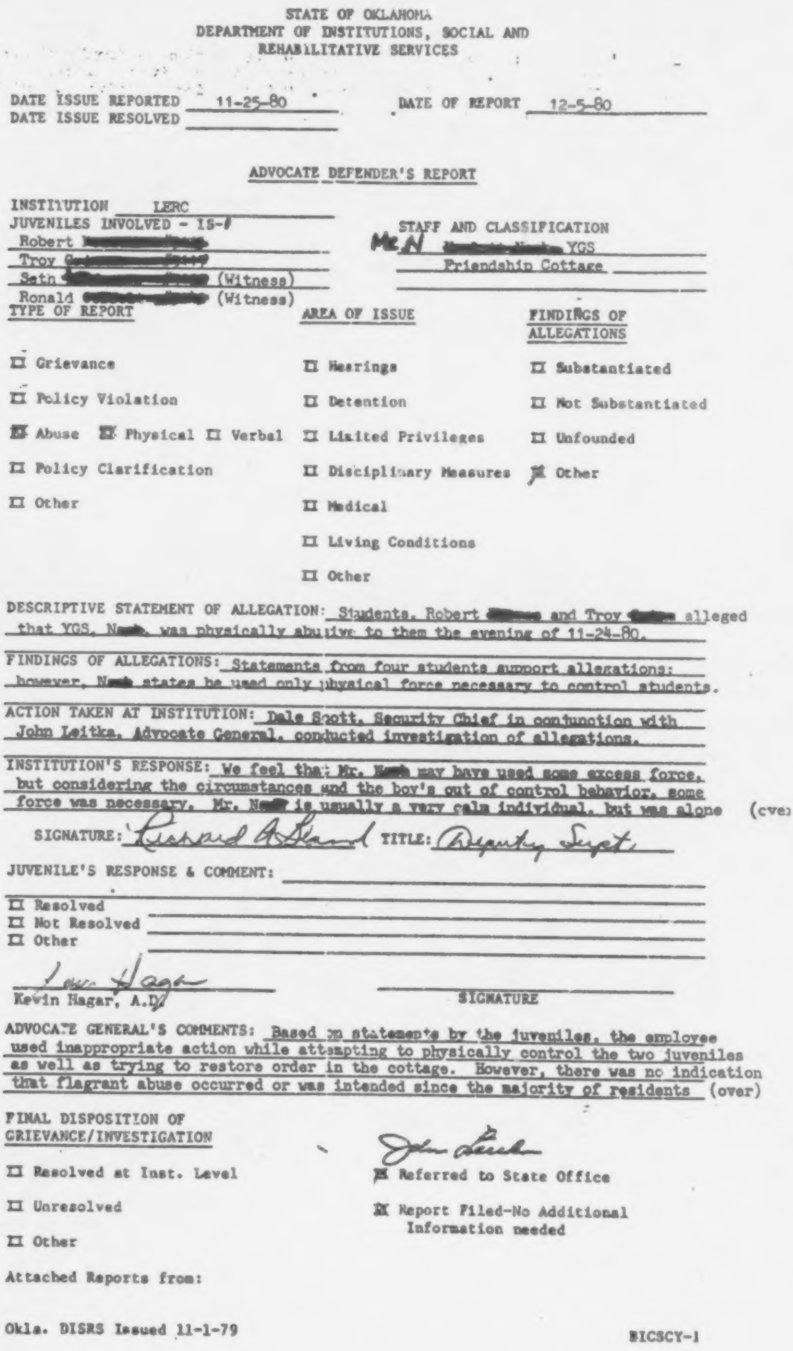
Charles [redacted] reported arriving on the scene and observed Mr. R[redacted] kick Tamayo (while on the ground) in the side. After Tamayo "got up" he was struck in the shoulder. According to Charles, the force of the blow was not enough to knock him down. It should be noted the sequence of the juvenile being kicked and struck were "in reverse" by Charles' and Tamayo's accounts. Charles also claimed that shortly before the investigation, Mr. R[redacted] instructed him not "to take up for that White boy". He is willing to take a polygraph test.

MR. [redacted] R[redacted], YGS, denied the allegations. Mr. R[redacted] stated Tamayo fell to the ground when he "whirled", trying to avoid being grabbed by the arm. The YGS was not willing to take a polygraph test because of not having any "faith in the test". Mr. R[redacted] commented that he was "telling the truth", and felt the chance for error was great.

JLJ:j

Attachment

(EXAMPLE 4.—In this report, two juveniles alleged that a Youth Guidance Specialist picked each of them up and slammed their heads against the wall. All juvenile witnesses gave similar accounts of the incident, corroborating the allegation. The YGS denied the allegation. The Advocate Defender found that although some "excess force" may have been used by staff, the allegations of abuse were not substantiated. It is surprising the responsible investigators recognized that force in "excess" of acceptable standards "may" have been used but failed to substantiate the allegations of abusive behavior on the part of staff; what is abuse if not excessive force?)



STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 11-25-80 DATE OF REPORT 12-5-80
DATE ISSUE RESOLVED

ADVOCATE DEFENDER'S REPORT

INSTITUTION LERC
JUVENILES INVOLVED - IS-1
Robert [redacted]
Troy [redacted]
Seth [redacted] (Witness)
Ronald [redacted] (Witness)

STAFF AND CLASSIFICATION
Mr. N [redacted] YGS
Friendship Cottage

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☐ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☒ Other

DESCRIPTIVE STATEMENT OF ALLEGATION: Students, Robert [redacted] and Troy [redacted] alleged that YGS, N[redacted], was physically abusive to them the evening of 11-24-80.

FINDINGS OF ALLEGATIONS: Statements from four students support allegations; however, N[redacted] states he used only physical force necessary to control students.

ACTION TAKEN AT INSTITUTION: Dale Scott, Security Chief in conjunction with John Leitka, Advocate General, conducted investigation of allegations.

INSTITUTION'S RESPONSE: We feel that Mr. N[redacted] may have used some excess force, but considering the circumstances and the boy's out of control behavior, some force was necessary. Mr. N[redacted] is usually a very calm individual, but was alone (over)

SIGNATURE: Richard A. [illegible] TITLE: Deputy Supt.

JUVENILE'S RESPONSE & COMMENT:

☐ Resolved
☐ Not Resolved
☐ Other

Kevin Hagar, A.D.

SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Based on statements by the juveniles, the employee used inappropriate action while attempting to physically control the two juveniles as well as trying to restore order in the cottage. However, there was no indication that flagrant abuse occurred or was intended since the majority of residents (over)

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☒ Referred to State Office
☒ Report Filed-No Additional Information needed

Attached Reports from:

Okla. DISRS Issued 11-1-79

BICSCY-1

INSTITUTION'S RESPONSE: (Cont'd) with a group of boys bent on destroying the cottage and doing as they pleased. He has been cautioned about excessive use of force and it is felt he will be more careful in the future. This was discussed with Mr. Nash by Dale Scott and myself, Richard Bland.

ADVOCATE GENERAL'S COMMENTS: on the cottage were completely out of control. (See attached AG's report for recommendations)

RECEIVED
1981
Ombudsman

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: FILE

Date: January 5, 1981

From: John Leitka, Advocate General
DICSC

Attention:

Subject: Alleged Physical Abuse - D&E
Troy [redacted] - Student
Robert [redacted] - Student
[redacted] - YGS
Mr. N.

In Reply - Address to
Attention: ______________________

It was alleged a YGS used excessive force on two juveniles while attempting to restore order on Friendship Cottage. After a prolong provocative behavior, [redacted] N[redacted], YGS, supposedly picked Troy [redacted], student, up by the neck and slammed his head against the wall. It was also reported the YGS repeated the act on another student (Robert [redacted]) as well as striking him in the face.

The following are accounts by four juveniles and Mr. N[redacted] which described the evening and series of events that led up to the alleged incident. There was considerable unrest among the residents from early evening which led to uncontrolled chaos until approximately 11:00 p.m. before order was finally restored.

At approximately 9:20 p.m., James Ellis, YGS, was called to Gemini Cottage, leaving Mr. N[redacted] alone to supervise the cottage. The residents immediately began testing limits and serious control problems surfaced. At about 10:oo p.m. David [redacted] pushed a chair through the ceiling and repeated the act after being placed in the time-out room.

The situation worsened when twelve juveniles left their cubicles and refused to return. They began taunting the YGS by climbing and standing on cubicle dividers, cursing, shouting racial remarks and defying the YGS. All the juveniles interviewed acknowledged they were completely out of physical control. It was at this point, Mr. N[redacted] supposedly lifted Troy [redacted] off the floor by the neck and banged his head against the wall before throwing him on the bed. Troy admitted "raising hell" (cursing - racial remarks) was the reason the YGS took action.

Robert [redacted], student, reported calling the YGS names and "not to hurt Troy" and saying he (YGS) "wouldn't do that to me." Mr. N[redacted] supposedly reacted by picking Robert up by the neck and throwing him on to the bed. Robert also claimed of being struck twice on the face, once with a clinched fist and with an open hand.

Three juvenile witnesses supported Troy [redacted] claim of being picked up by the neck and head being slammed against the wall. Mr. N[redacted] reported picking up both juveniles by the shoulders (not by the neck) and "tossing" them in bed.

Troy [redacted] and Ron [redacted] supported Robert [redacted]' claim he was struck twice. Mr. Dale Scott, Security, who was present during the interviews, felt Ron [redacted] could not have been in a position to observe the allegation. Mr. N[redacted] denied striking the juvenile.

It should be noted Mr. N[redacted] indicated attempts to communicate with supervisory staff was less than satisfactory. Initially, the shift chief was apprised of the general unrest at 7:00 p.m. and responded by talking with David [redacted] who was causing problems. However, when the other YGS was called to another cottage and the situation worsened, he attempted to call the shift chief but was told by the "operator" he was on an "emergency." Later, a call was placed to the Administrator on Duty but was told he was in conference with the shift chief. Mr. N[redacted] reported the AOD finally arrived about 11:00 p.m. and order was restored.

FINDINGS: Based on statements by the juveniles, the employee used inappropriate action while attempting to physically control the two juveniles as well as trying to restore order in the cottage. However, there was no indication that flagrant abuse occurred or was intended since the majority of residents on the cottage were completely out of control.

RECOMMENDATIONS:

1. The employee be apprised of the above findings and informed this report will be placed in his Institutional personnel file.

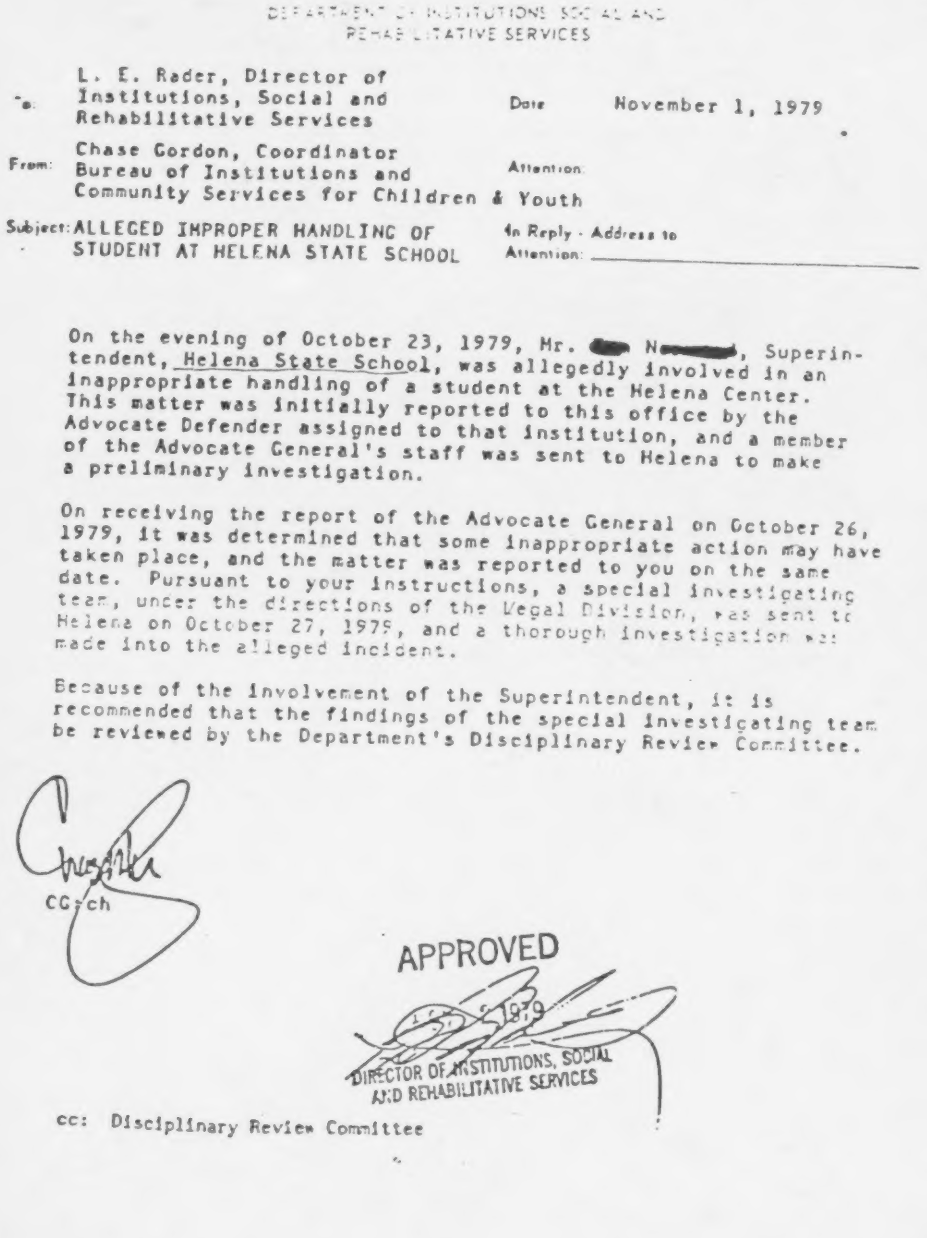
2. The State Office Program Supervisor needs to discuss the YGS' remarks regarding the poor communication with supervisory staff during the evening of the alleged incident.

3. Also, the institution needs to submit an investigative report as soon as possible. A report has not been received as of this date.

4. All juveniles alleging physical abuse should receive a medical examination.

JL:lc

(**Example** 5.—One incident discussed at both the February and the May hearings involved an allegation that Mr. N., the Superintendent at Helena kicked a student, Tony in the head as Tony lay shackled on the floor. Ultimately the matter was referred to a special disciplinary review committee. That committee declined to discipline Mr. N. Shortly thereafter, Mr. N. was transferred from Helena to serve as a psychologist at the facility for the retarded at Paul's Valley. The records of the investigation that follow raise questions about the thoroughness and effectiveness of the investigation. For example, the investigative report notes that the deputy superintendent suggested to certain staff witnesses that they be unavailable to talk with investigators; that efforts were made by other Helena pesonnel to disrupt interviews; and that personnel who gave information adverse to Mr. N. were subsequently removed.)



DEPARTMENT OF INSTITUTIONS SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director of Institutions, Social and Rehabilitative Services
Date November 1, 1979

From: Chase Gordon, Coordinator Bureau of Institutions and Community Services for Children & Youth
Attention:

Subject: ALLEGED IMPROPER HANDLING OF STUDENT AT HELENA STATE SCHOOL
In Reply - Address to Attention: ____

On the evening of October 23, 1979, Mr. [redacted] N[redacted], Superintendent, Helena State School, was allegedly involved in an inappropriate handling of a student at the Helena Center. This matter was initially reported to this office by the Advocate Defender assigned to that institution, and a member of the Advocate General's staff was sent to Helena to make a preliminary investigation.

On receiving the report of the Advocate General on October 26, 1979, it was determined that some inappropriate action may have taken place, and the matter was reported to you on the same date. Pursuant to your instructions, a special investigating team, under the directions of the Legal Division, was sent to Helena on October 27, 1979, and a thorough investigation was made into the alleged incident.

Because of the involvement of the Superintendent, it is recommended that the findings of the special investigating team be reviewed by the Department's Disciplinary Review Committee.

CG:ch

APPROVED
[illegible] 1979
DIRECTOR OF INSTITUTIONS, SOCIAL AND REHABILITATIVE SERVICES

cc: Disciplinary Review Committee

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

Ex. 14

To L. E. Rader
Director of Public Welfare

Date November 14, 1979

From Jerry H. Ballenger
Review Board Member

Attention R. Chase Gordon, Coordinator

Subject REPORT OF EVENTS RELATIVE TO ADVOCATE GENERAL INVESTIGATION AT HELENA, OCTOBER 25 to OCTOBER 30, 1979

In Reply - Address to Attention ______________

On October 25, 1979, I was attending a Bureau Conference at Western Hills. On that date my supervisor, John Leitka, received a phone call from Gary Midkiff, Advocate Defender at Helena; Mr. Midkiff reported to Mr. Leitka that he had received a complaint from juvenile Tony [redacted] to the effect that Superintendent [redacted] N[redacted] had kicked him in the head on October 23, 1979. It is standard procedure for the Advocate Defender to report by telephone complaints that could be of a serious nature rather than sending in a written report which could be delayed in the mail by several days. It is also standard procedure for the Advocate Defender to report such information to the institution's superintendent. Superintendent N[redacted] was at Western Hills also. I do not know why Mr. Midkiff did not report the event to Mr. Daney, Deputy Superintendent, but my guess is that since the complaint involved the superintendent, Mr. Midkiff felt it was best to be discreet and not report it on campus until he had received instructions.

Mr. Leitka reported this news to Mr. Chase Gordon and David Shafer. Mr. Gordon instructed me to go immediately to Helena and interview anyone connected with the event. Mr. N[redacted], who had been informed of the allegation, asked me when I would be going to Helena and I told him I would leave the next morning. Mr. N[redacted] then got on the phone in my presence and dictated a statement to his secretary concerning his knowledge of the incident. He advised me that I would be given a copy of the statement when I got to Helena.

When I arrived at Helena, Mr. N[redacted] was still at Western Hills. I met with Mr. Daney and Mr. Midkiff as soon as I arrived and Mr. Daney gave me Mr. N[redacted] report and asked me how I wanted to conduct the investigation. I said I did not know as yet because I did not know exactly what was being alleged. I said I thought I would review Mr. Midkiff's reports and then decide how best to proceed. I asked Mr. Daney what employees were available just then and he indicated that one or two of them were there, some were off duty that day or would come to work about 4:00 pm. Mr. Daney during the next hour or so asked me who I wanted to see two or three times and each time we had the same conversation: I was becoming confused about who I could talk to because

Mr. Daney would rush off and I would not hear from him again until he would come back with the same question.

Meanwhile, I had gone to Mr. Midkiff's office to review his reports. After I got to his office I discovered he had not actually written any reports, he had notes which he intended to use as the basis of his report. I then made an assumption which led to some of this misunderstanding: I assumed that Mr. Daney would have no objection to my personally interviewing the juveniles making the allegations. Mr. Midkiff had already interviewed them once and I saw no reason why he should not sit in on the interviews; in fact, I thought he ought to be present so he could tell me if any part of the juveniles' stories changed from what they had told him.

As we were in the process of interviewing the juveniles I learned that two of them were still in detention and unable to come to the office. I went to detention to see them and to see if I could determine how much of the incident the juveniles would have been able to see. I took Mr. Midkiff to detention with me. I have been to Helena many times and have often gone to the detention facility without specifically asking the superintendent's permission. I did not think it unsusual to do so in this case.

After I got back to the office I continued interviewing other juveniles. I also went to Mr. Daney's office to see if I could line up some interviews with employees. While I was having another conversation with Mr. Daney about when employees would be available, Mr. Midkiff told me he had received a call from Mr. Stewart, recreational worker, stating his desire to see me immediately. Without thinking about whether or not I needed Mr. Daney's permission, I agreed to see Mr. Stewart.

Mr. Stewart came to Mr. Midkiff's office directly. He told me in Mr. Midkiff's presence that Mr. Daney had just talked to him and had suggested that he take some compensatory time off and not talk to me. He also said Chaplain Cook had discussed with him what the other employees were going to tell me when they were questioned. Mr. Stewart said further that other employees would tell me that Mr. N[redacted] did not kick Tony [redacted], but that he had witnessed the event and had seen Mr. N[redacted] kick him. He said I should talk with Mike Zarella and James Wade.

Shortly after this Mr. Daney came into Mr. Midkiff's office and said that he objected to the procedure being followed, that I was not clearing who I spoke with through him, and that he objected to Mr. Midkiff sitting in on the interviews. I told Mr. Daney that I wanted to cooperate with him and that if he would just bring the employees in, I would see them whereever he desired. He asked who I wanted to see next and I said Chaplain Cook since he had been spending most of his time with Mr. Daney anyway. Mr. Daney pointed his finger angrily at Mr. Midkiff and said he objected to his presence and that Mr. Cook would not answer any questions put to him by Mr. Midkiff. I excused Mr. Midkiff from further participation at that point.

I was distressed by the report Mr. Stewart gave me about Mr. N[redacted] and I was concerned about Mr. Daney's alleged attempt to keep Mr. Stewart from talking to me. I also felt Mr. Daney's attitude toward Mr. Midkiff was unjustified.

The rest of the inquiry was uneventful except that Mr. Wade also reported that Mr. N[redacted] had kicked Tony [redacted] and he confirmed Mr. Stewart's report that a story was being concocted by other employees to cover that fact up.

Although I did not wish to believe Mr. N[redacted] was guilty, I felt I had no choice but to report what I had been told since several other people knew that I had been informed of an alleged cover-up.

Since that time I have also been informed that Mr. Daney called Joe Brown in the State Office that morning wanting Mr. Brown to give juvenile Virgil [redacted] an "immediate" parole. Mr. Brown said he a hard time making Mr. Daney believe that he could not authorize a parole without going through Mr. Rader or the Parole Board. Mr. Brown said Mr. Daney's attitude was "hysterical". Virgil [redacted] was one of the juveniles alleging Mr. N[redacted] kicked Tony [redacted].

I do not know if Mr. N[redacted] kicked Tony [redacted] or not, the stories were conflicting, but I do believe that Mr. Daney, assisted by Mr. Cook, attempted to interfere with the fact finding process; other people told me that he did and my own observations lead me to that same conclusion.

On 10-30-79, I returned to Helena with other State Office personnel, including Mr. Shafer. Mr. Daney continued to object to the procedures I had followed the previous Friday. And he followed this up with a memo of 10-26-79 alleging that Mr. Midkiff was uncooperative and that I had not followed procedure. I personally do not think Mr. Midkiff was uncooperative, quite the contrary. I do feel that Mr. Daney was unreasonably hostile to Mr. Midkiff and that he attempted, for whatever reasons, to influence the outcome of the investigation.

JHB:j

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader
Director of Public Welfare

Date: November 16, 1979

From: John Leitka, Jr., Advocate General
Bureau of Institutions and
Community Services to Children
and Youth

Attention: R. Chase Gordon

Subject: FOR YOUR INFORMATION

In Reply - Address to
Attention: __________

The AD informed this office on November 14, 1979, that he had been contacted by Mr. Bill Stewart, Institution Baker, regarding information about his son's (Ed Stewart-Recreation) employment status.

Mr. Bill Stewart reported the son received information the Superintendent had sent "papers" to "Oklahoma City" requesting Ed be transferred to M.R. facility at Enid. The "papers" were supposedly intercepted by Mr. Shafer, Division Supervisor. Mr. Stewart also implied that some type of action was requested on a Mr. Wade. He felt the request was made in response to statements made by the son and Mr. Wade during a recent investigation involving the Superintendent.

Mr. Stewart indicated that the son was extremely angry and contemplated physically confronting the Superintendent on the evening of November 12, 1979.

The AD reported advising Mr. Stewart he had no knowledge nor privy to that type of information.

Jerry Ballenger, State Office, reported receiving a telephone call from Ms. Clara Stewart (Ed's mother) inquiring about the possibility of her son being transferred to another institution. She was advised this office had no knowledge of any such action.

At the present time, there are no plans by the Advocate General to pursue the above, unless directed otherwise.

JLJ:j

cc: Shafer

John Leitka Jr.

(**Example** 6.—In this recent case, a student alleged that he was sexually molested when staff at the Rader Center allowed four other youth to enter his locked detention cell for "positive peer culture." The student that made the allegations was given a polygraph; the others were not. Instead of pursuing this potentially embarrassing allegation, the investigator questioned the reliability of the polygraph.)

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: April 30, 1982

From: William D. Brown
Chief of Security

Attention: Ted Baumberger, Ph.D, Admin. Asst.
Consultant on Services to Children
Coordinator of Psychological Service

In Reply—Address to
Attention: ____________________

Subject: Juan [redacted]
Paul [redacted]
Rocky [redacted]
Bo [redacted]
Pat [redacted] - Victim

On 4/27/82, Jack Hammett and myself traveled to the Rader Children's Center at the request of Fred Hill, Division of Institutional Services. The purpose of the inquiry was to determine if a breech of departmental policy caused the incident that Pat [redacted] alleged. That is, he was assaulted and sexually abused by the referenced students on numerous occassions within the last several weeks.

PAT [redacted] alleges he was physically and sexually abused by the above students while he was on detention in Cottage #4. This detention resulted from [redacted] Pat going AWOL, and caused him to be locked in his room. The other students gained entry by telling the YGS on duty they were going to counsel with him about his negative behavior. This allegedly is permitted under the "Positive Peer Culture", which exists in the institution. The alleged assaults took place when only one YGS was on duty.

All of the students were interviewed by the institution's staff. This interview was tape recorded and transcribed(see attached). The four students denied the allegations of sexual abuse. I was advised that PAT [redacted] was taken to the Tulsa County Sheriff's Office where he voluntarily submitted to a polygraph examination. I was further advised by Dale Scott, Chief of Security, that PAT [redacted] had passed this examination. Mr. Scott could not tell me what questions were put to the student or any detailed information regarding the results.

We should be very circumspect in relying on the results of polygraph examinations. The examiner is extremely important. If this individual is not skillful, the results of the examination will be inaccurate. Where used, we must have definite input into the questions asked to insure useful results. These tests are not infallible nor admissable as evidence in a court of law. Once we submit a student or employee to an examination, we bear the burden of the results. An inaccurate test could lend credibility to a falsely reported abuse or malfeasance. In this incident, I hesitate to attach any credence to the results of [redacted] PAT'S examination without a detailed report from the examiner which includes the questions asked.

I requested Deputy Sheriff Buddy Warrens, Tulsa County Sheriff's Office, to investigate the alleged assaults. Mr. Warrens appeared at the institution immediately. We discussed the situation and Mr. Warrens advised the only major index crime commited was the alleged sodomy that occurred the evening of 4/21/82. Mr. Warrens agreed to interview those involved to determine the prosecutive merits of the incident.

We interviewed Pat [redacted], Paul [redacted] and Juan [redacted]. PAT [redacted] alleged that on the evening of 4/21/82, PAUL [redacted] and JUAN [redacted] were allowed in his room by the YGS. PAUL [redacted] and JUAN [redacted] warned him about going AWOL. PAUL [redacted] forced PAT [redacted] to masterbate him. JUAN [redacted] hit him in the mouth with an open hand. He then ordered PAT [redacted] to remove his pants and shorts and sodomized him. PAT [redacted] stated he told Harold Gossman, Cottage Leader, Thursday afternoon around 3:00 p.m. He further stated he did not report the incident earlier because he was threatened not to.

Both JUAN [redacted] and PAUL [redacted] vehemently denied the allegations of sexual abuse. They did admit to entering PAT [redacted]'s room on several occasions to talk with him about not going AWOL. They advised the YGS let them in PAT [redacted]'s room because they were permitted, as high phase students, to counsel with others who were on detention. While in the room, with no supervision, they threatened to harm PAT [redacted] if he did not straighten up. They both admitted JUAN [redacted] struck PAT [redacted] the night of 4/21/82. It should be noted that JUAN [redacted] is an extremely large person and has a long history of severly injuring staff. Cottage #4 has several of the most difficult students to handle residing in it. Both JUAN [redacted] and PAUL [redacted] advised they view the "Positive Peer Culture" as a system whereby high phase students counsel those who get in trouble. They also perceive the entire cottage suffering everytime one individual acts inappropriately. By their own admission, their counselling consists of both threats and acts of physical harm. Both JUAN [redacted] and PAUL [redacted] demonstrated anger at PAT [redacted]. They vowed they would beat him up the first chance they got. They also stated they were going to riot later that evening and "tear the place up".

In view of what transpired, Mr. Warrens advised there was no prosecutive merit to this case. It was the word of PAT [redacted] against the other two students. I did request Mr. Warrens to place his office on an alert status in view of the threatened riot. He agreed to this. Mr. Scott was directed to alert his entire staff to be prepared. Wilbur Williams, Superintendent gathered all the students in Cottage #4 in a large group meeting to lower the level of anxiety.

As a result of the proceeding, I make the following recommendations:

1) To insure proper supervision, there should never be less than two Youth Guidence Specialists on duty in each cottage at ITC. In view of the violent nature of many students, one staff person could not respond adequately to a violent act to prevent injury to other students and/or him or herself. In the event outside help was urgently needed, one staff person could easily be prevented from communicating this need.

2) Under no circumstances should any students be permitted to counsel another student without being directly supervised by the staff.

3) Definite guidelines should be promulgated with specific authority being established for the use of polygraph examinations. This will help prevent being damaged by poorly conducted or ill advised examinations.

4) A complete and detailed analysis of the security system will be conducted by myself immediately.

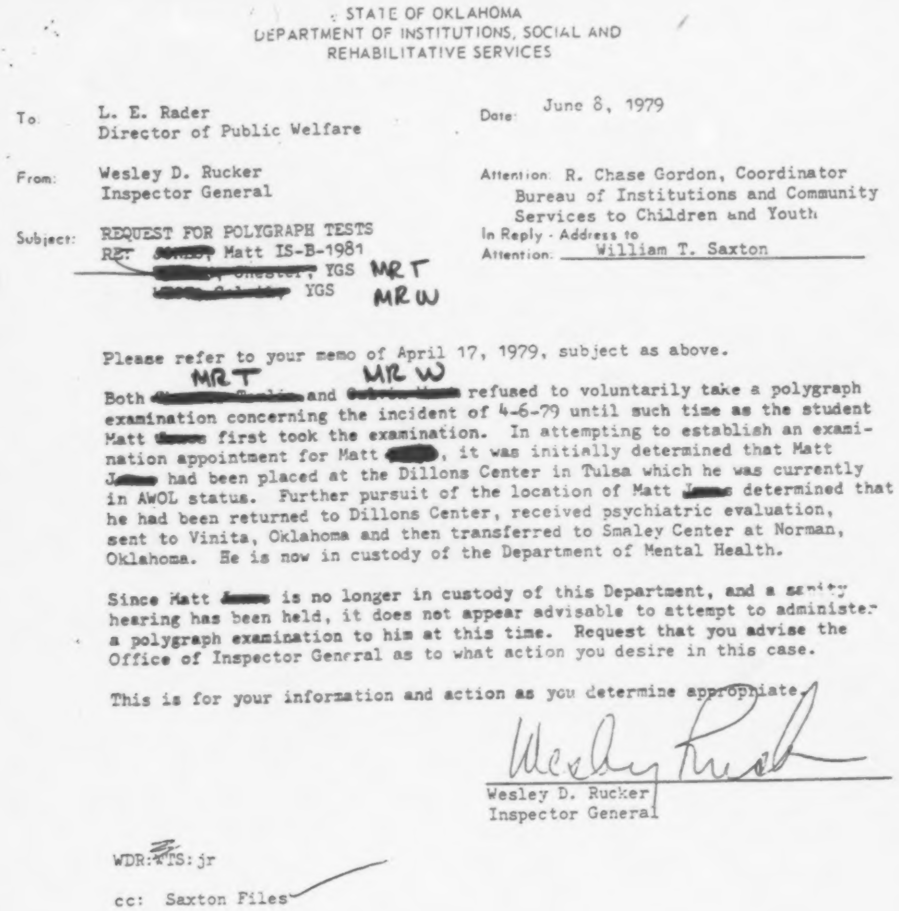
William D. Brown

WDB:cf

William D. Brown
Chief of Security

cc: Wes Rucker
Jack Campbell
Wilbur Williams
Charles Garrett
Fred Hill
Deborah Rothe
File

(EXAMPLE 7.—The juvenile alleged that a staff member jokingly proposed that he perform a homosexual act and that this same staff member later hit him with his belt and fists. The staff member refused to take a polygraph unless the juvenile first took one. The juvenile was transferred to the custody of the Department of Mental Health. Despite what the investigation labeled as "inconsistencies in the reports made by staff" that "cast doubt on their version of what happened," the investigation was not pursued and the allegations were never resolved.)



STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader
Director of Public Welfare

Date: June 8, 1979

From: Wesley D. Rucker
Inspector General

Attention: R. Chase Gordon, Coordinator
Bureau of Institutions and Community
Services to Children and Youth

Subject: REQUEST FOR POLYGRAPH TESTS
RE: [redacted], Matt IS-B-1981
[redacted], YGS MRT
[redacted] YGS MRW

In Reply - Address to
Attention: William T. Saxton

Please refer to your memo of April 17, 1979, subject as above.

MRT MRW

Both [redacted] and [redacted] refused to voluntarily take a polygraph examination concerning the incident of 4-6-79 until such time as the student Matt [redacted] first took the examination. In attempting to establish an examination appointment for Matt [redacted], it was initially determined that Matt J[redacted] had been placed at the Dillons Center in Tulsa which he was currently in AWOL status. Further pursuit of the location of Matt [redacted] determined that he had been returned to Dillons Center, received psychiatric evaluation, sent to Vinita, Oklahoma and then transferred to Smaley Center at Norman, Oklahoma. He is now in custody of the Department of Mental Health.

Since Matt [redacted] is no longer in custody of this Department, and a sanity hearing has been held, it does not appear advisable to attempt to administer a polygraph examination to him at this time. Request that you advise the Office of Inspector General as to what action you desire in this case.

This is for your information and action as you determine appropriate.

Wesley Rucker
Wesley D. Rucker
Inspector General

WDR:~~WTS~~:jr

cc: Saxton Files

STATE OF OKLAHOMA
DEP TMENT OF INSTITUTIONS, SOCIAL AN
REHABILITATIVE SERVICES

L. E. Rader, Director Institutions, Social and Rehabilitative Services
Date: April 17, 1979

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children and Youth
Attention: R. Chase Gordon, Coordinator

Subject: Allegations of Matt [redacted]81
Regarding: [redacted] T[redacted] YGS
[redacted] W[redacted], YGS
[redacted] M[redacted], YGS (Shift Supervisor)
Boley State School for Boys

In Reply - Address to
Attention: ______________________

Matt [redacted], a juvenile at Boley, reported that on the evening of 4-6-79 and the morning of 4-7-79, the following events took place in Boley's limited privileges Cottage (Grant): three boys were in the cottage being supervised by two employees, Mr. T[redacted] and Mr. W[redacted] When Mr. T[redacted] came on duty at 11:30 p.m., he was drunk and smelling of "fish, cars and beer"; he also seemed angry. While the five people in the cottage were watching the Midnight Special on TV, Mr. T[redacted] was dancing about in the cottage. Matt [redacted] said that Mr. T[redacted] asked him to perform a homosexual act and, while Matt did not think Mr. T[redacted] was serious, he was offended. The boys did not go to bed at 1:00 a.m. as scheduled but remained up until 3:00am watching TV. Mr. T[redacted] fell asleep about 2:00 a.m. and Mr. W[redacted] went to sleep at 2:30 a.m. Ronnie [redacted] took the keys to the cottage from Mr. W[redacted] pocket and the three boys were starting to use the keys to release a juvenile in detention when the phone rang and woke up Mr. T[redacted] and Mr. W[redacted]. The boys returned the keys to Mr. W[redacted]. Mr. T[redacted] took off his belt and began swinging it at Matt [redacted], hitting him twice while chasing him around the room. Matt ran into Wayne [redacted]'s cubicle and Mr. T[redacted] came in and hit him several times with his fists on the arms, back and legs.

Matt displayed some marks on his arms and leg but they appeared to be old marks.

About 4:30 Mr. M[redacted], Shift Supervisor, was called to the cottage to assist Mr. T[redacted] and Mr. W[redacted]. Matt complained to Mr. M[redacted] that he thought both men were crazy and he wanted to be taken out of the cottage. He was finally persuaded to go to bed.

Mr. W[redacted] told Superintendent Doyle that neither he nor Mr. T[redacted] slept on duty. He said Mr. T[redacted] "might have been drinking before he got" to work but that he could not really say for sure. He said the TV was turned off at 1:00 a.m. but that the three boys remained up. Mr. W[redacted] said the juveniles did snatch the keys out of his pocket and toss them back and forth to each other, but that they gave them back to Mr. W[redacted]; in his opinion, they were just playing. He said Mr. T[redacted] took off his belt and chased Matt around the room but that "he did not hit him hard though". Matt [redacted], he said, was being put up to reporting this story in order to get him and Mr. T[redacted] fired. Mr. W[redacted] said they called the Shift Supervisor on the phone every hour.

Upon re-interview, Mr. W[redacted] stated that Matt [redacted] kept going into Wayne [redacted]' cubicle and that Mr. T[redacted] asked him four times to go to bed. Mr. T[redacted] went into Wayne J[redacted]' cubicle after Matt and took his belt off, but Mr. W[redacted] did not think he used it. He could not see in the cubicle but did not hear any blows landed.

Mr. W[redacted] said another Youth Guidance Specialist, Mr. [redacted] A[redacted], was taking up for Matt and making the work of the other employees that much harder.

Mr. T[redacted] told Mr. D[redacted] that he did not take off his belt at any time, nor did he strike Matt. He did admit using verbal threats in an attempt to get Matt to bed. He also stated that neither he nor Mr. W[redacted] were asleep at any time but that Mr. W[redacted] had the keys snatched away from him by the juveniles. He said they were just playing and he had not been concerned about it at the time.

Mr. T[redacted] said he had Mr. M[redacted] come down at 4:00 a.m. to help him get Matt to bed. Matt would not go to bed or stay out of Wayne [redacted]' cubicle.

Mr. T[redacted] said the juveniles were deliberately lying and were being supported by Mr. A[redacted] who had threatened him the next morning. Mr. T[redacted] said he was not willing to take a polygraph examination.

Upon being re-interviewed, Mr. T[redacted] denied being drunk, stated he turned off the TV at 1:00 a.m., denied that either he or Mr. W[redacted] went to sleep, denied any homosexual remarks, denied taking off his belt and denied hitting Matt. He admitted dancing during the Midnight Special and said he "might have unbuckled" his belt. When he was informed that Mr. W[redacted] said he did take off his belt, Mr. T[redacted] said Mr. W[redacted] was "wrong". He said he had to stop Wayne J[redacted] and Matt [redacted] from kissing each other, and said he caught them in a homosexual act together about four months ago but that he had not reported the incident.

Mr. T[redacted] said Mr. M[redacted] only came to the cottage once, when he was asked to by Mr. T[redacted].

Mr. T[redacted] said he sometimes pretends to be asleep in order to catch the juveniles misbehaving.

Mr. T[redacted] thinks that Mr. A[redacted] goes with the mother of Matt J[redacted], that they live near each other, that Mr. A[redacted] is trying to get Matt out of Boley, and that Matt knew Mr. A[redacted] before he came to Boley. (Matt [redacted]' mother reportedly lives in Muskogee and, and Mr. A[redacted] reportedly lives in Weleetka.)

Mr. T[redacted] again stated he had been threatened by Mr. A[redacted]. (Mr. A[redacted] was attending a workshop and unavailable for interview).

Mr. T[redacted] has been relieved of duty pending further investigation. He said he would not take a polygraph exam as his word was good.

In an incident report dated 4-9-79, Mr. T[redacted] accused Matt and Wayne of attempting to engage in homosexual relations, of stealing the keys and of wanting to get him fired. He reported no action was taken because they got the keys back and no one engaged in homosexual relations.

Mr. M[redacted] said he saw Mr. T[redacted] when he came on duty and that he appeared normal to him. He said he would send home any employee who came to work drunk. Mr. M[redacted] said he usually checked on the cottage once an hour but that he had not gone into the cottage and signed in as prescribed, he had just peeked in the door. He said Mr. T[redacted] and Mr. W[redacted] were awake when he looked. At 4:00 a.m. when he checked, Matt was the only juvenile still up. Matt told him those men were crazy, but he did not report anything about being whipped or anything about the keys. When asked why Matt J[redacted] was not put in detention if he was out of control, Mr. M[redacted] said maybe it was too cold in detention to put him there.

Mr. M[redacted] was unable to explain why he did not act until after 4:00 a.m. if he knew the juveniles were still up.

The sign-in log in Grant Cottage did not show that Mr. M[redacted] had been there. The Shift Supervisor's phone call log recorded phone calls from Grant to the Supervisor's office at 12:30, 1:25, 2:20, 3:40, 4:30, 5:40, and 6:00 a.m. No notations were made about the calls.

Wayne J[redacted] and Ronnie [redacted] were not interviewed as they were being treated for injuries suffered during a subsequent runaway. Matt J[redacted] did not run away with them.

All the Youth Guidance Specialist staff seem to have the opinion that the juveniles have more rights than the staff, and that juveniles are believed when staff are doubted. Unfortunately, there are inconsistencies in the reports made by staff to cast doubt on their version of what happened. Mr. T[redacted] reported he was not drunk, while Mr. W[redacted] thought he "might have been". Mr. T[redacted] denied whipping Matt with his belt, although he "might" have unbuckled it; Mr. W[redacted] said he used the belt but not hard, which later was changed to having Mr. T[redacted] taking his belt off but not using it. The cottage keys were, for a time, out of the control of staff. Mr. T[redacted] did admit to dancing. There is no evidence that Mr. M[redacted], as Supervisor, was attending to his supervisory duties between 1:00 a.m. and 4:30 a.m.

All of the staff interviewed stated their willingness to take a polygraph examination except Mr. T[redacted]

In deference to the staff feeling their reports are doubted, it is recommended that a polygraph examination be given Matt [redacted] at the earliest possible date. If Matt is unable to support his charges, the issue should be dropped. If he does support his charges, disciplinary action should be directed toward Mr. T[redacted], Mr. W[redacted] and Mr. M[redacted]. Consideration should also be given Mr. A[redacted] role at the institution.

JL:em

John [illegible] Jr.

D. THE PLACEMENT OF NONOFFENDERS AND STATUS OFFENDERS IN SECURE DETENTION FACILITIES CONTRIBUTED TO THE INCIDENCE OF ABUSE AND FUTURE DELINQUENCY

A stated purpose of the Juvenile Justice and Delinquency Prevention Act is the deinstitutionalization of status offenders. In passing the Act, this Subcommittee and Congress responded to overwhelming evidence showing that "institutionalization of status offenders in remotely placed, large warehousing institutions bereft of services was totally destructive of the children and, indeed, provided them with excellent schooling in crime. Conditions in these institutions created settings in which the truant learned well from the mugger, and the runaway learned equally as well from rapists." (Testimony of Lenore Gittis Mittelman on behalf of The Children's Defense Fund before the Subcommittee to Investigate Juvenile Delinquency, April 27, 1977.)

Experts have long recognized that the very fact of institutionalization adversely affects a juvenile as it labels him as a "devient" both in his eyes and in those of society. Frank Tannenbaum writing in 1938 wrote:

"The first dramatiztion of the 'evil' which separates the child out of his group for specialized treatment plays a greater role in making the criminal than perhaps any other experience. It cannot be too often emphasized that for the child the whole situation has become different. He now lives in a different world. He has been tagged. A new and hitherto nonexistent environment has been precipitated out for him.

The process of making the criminal, therefore, is a process of tagging, defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious; it becomes a way of stimulating, suggesting, emphasizing and evoking the very traits that are complained of." *Crime and Community* (New York: Columbia University Press, 1938), pp. 19–20.

Prevention of this labeling process was a key purpose of the deinstitutionalization policy incorporated in the Juvenile Justice and Delinquency Prevention Act. In its 1982 National Evaluation of the Deinstitutionalization of Status Offender Programs, the Office of Juvenile Justice and Delinquency Prevention presents two justifications for the federal policy: (1) the conclusion that for "minor or first offenders the experience of formal processing by police, courts and correctional agencies induces the young person to see himself as a delinquent, increasing the likelihood of subsequent offenses"; and (2) the belief that "it is both unwarranted and inhumane to subject persons to secure confinement as a response to noncriminal behavior represented by status offenders."

Oklahoma, unlike the vast majority of other states, routinely institutionalizes status offenders and unlike any other state also institutionalizes deprived and neglected children.[1]

Since the Subcommittee continues to believe that institutionalization fosters abuse, we conclude that excessive reliance on the large institution is a significant cause of the abuses found in Oklahoma. Dr. Richard Korn explained the relationship of institutionalization and abuse:

"A young man refuses to go to school. We know that he won't make it in life unless he gets an education. Our objective is to get him to go to school. He rejects persuasion as we place him on probation in order to induce him to accept persuasion. But he refuses to see his probation officer. So we place him in an institution, in order to make sure that he cannot escape our attempt to give him counseling. But even in the institution he resists seeing his counselor. So our objective now is to force him to see the counselor. But when we come for him in his room, he violently resists and, in order to fulfill our original objective, we must now first subdue him. (We can't help him if we are injured.) Our immediate goal, therefore, is to render him incapable of injuring us—using whatever force the situation requires, including (in the extreme case) disabling him physically in order to save ourselves."

(Testimony before the Senate Subcommittee to Investigate Juvenile Delinquency, May 3, 1971. p. 20)

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[1] Legislation enacted in Oklahoma as a result of *Terry D.* v. *Rader* and this investigation may alter the handling of status offenders and deprived and neglected children in the future.

Between 1978 and 1980 certain Departmental officials attempted to decrease the numbers of status offenders and non-offenders held in institutions. An "open campus" policy was established to release nondelinquent juveniles from custody as soon as alternative placement was available. From 1978 to 1980 the number of INS and deprived children in state institutional care dropped from 430 to 210. In 1980, a staff recommendation was made to the Director to close the Whitaker and Helena schools. Instead, the schools remained open, those responsible for the deinstitutionalization were replaced and the populations of INS and deprived children were returned to their previous high levels. (See Depositions of R. Chase Gordon taken in *Terry D.* v. *Rader*, June 29, 1981.)

The Subcommittee's discussions with juveniles at Whitaker revealed that many of these young people, reacted to their loss of freedom with anger and bewilderment. They repeatedly stressed the fact that they had committed no crime and yet were treated as "criminals".

A letter appended to a 1980 report in which a female inmate at the Rader Center complained of excessive and punitive regimentation captures this sentiment:

"I'm here because I have problems with my parents. I have never broken the law in any way. No drugs, nothing. I'm from a very good background and it's hard enough to live here. But then to top all that off, we're treated like that. I can't stand that. And I'm sorry but I won't. That's not fair. I don't deserve to be so I won't be . . ."

Juveniles also complained of boredom stemming from the lack of freedom to move about campus or to go to town. According to the young people, the combination of anger and boredom frequently led them to "act out". Acting out in turn, when met with punishment, resulted in heightened anger and frustration.

The not infrequent response to this cycle is an AWOL attempt. For example, David and Stacey testified before the Subcommittee that after entering the system as INS, they each, independently, tried to steal a truck from Whitaker to escape and consequently elevated their status to "delinquent".

E. CHILDREN WERE HELD IN ADULT JAILS

The two male juveniles who testified before the Subcommittee, along with one of the juveniles who provided the Subcommittee with a written statement, indicated that they were held in adult jails. One of these juveniles testified that he was held along with adults in the Payne County jail for two weeks.

Although the jailing of juveniles was not a focal point of this investigation, the Subcommittee nevertheless considers it important to address this issue since one of the key purposes of the Juvenile Justice and Delinquency Prevention Act is the removal of juveniles from adult jails and lockups. The reasons for encouraging removal include: (1) incarceration of children in adult facilities is dangerous and inhumane; and (2) jailed young people are subject to attack or molestation by adult inmates. Moreover, research conducted by the Community Research Center and the National Center on Institutions and Alternatives revealed that the suicide rate of juveniles in adult jails is eight times higher than in juvenile detention facilities or in the general population. Finally, allowing juveniles to mingle with more experienced and hardened adult offenders is likely to encourage the juvenile to engage in future misconduct.

Six states, including Oklahoma, have opted not to participate in the federal juvenile justice program and have not accepted federal funds to assist in the removal of juveniles from adult jails. Unfortunately, many states that do participate in the juvenile justice program still detain substantial numbers of juveniles in jail. Indeed, in the latest federal survey only seven jurisdictions reported that no juveniles were detained for any length of time in adult jails.

The Subcommittee continues to urge that removal of children from adult facilities be made a priority in all states.

F. THE SELECTION AND TRAINING OF PERSONNEL WORKING WITH CHILDREN IN CUSTODY FOSTERED ABUSE

1. Selection

There are several instances where the materials supplied to the Subcommittee indicate that the Department has hired persons with serious criminal backgrounds, including men with a history of sex offenses. Illustrative of this practice are the following cases:

EXAMPLE 1

As the following memoranda indicate, Mr. A was hired as a Youth Guidance Specialist to work with juveniles at Taft. These memoranda reveal the following:

(1) Mr. A had a history of child molestation; and

(2) Mr. A had an arrest sheet indicating approximately 30 arrests.

A subsequent memorandum[1] dated May 15, 1979, from Wesly D. Rucker, Inspecter General to L. E. Rader further discussed these allegations and stated:

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[1] The memorandum is not reprinted here because it contains detailed information potentially identifying the children allegedly involved.

"Detective Summers stated he would follow through on this case Monday, May 14, 1979, and obtain as many complainants as possible. He provided the investigator with a copy of Mr. A's arrest sheet, attached, which indicates approximately 30 arrests, some of which were for investigation. It is not known, now, what they were for."

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader
Director of Public Welfare

Date: May 10, 1979

From: George A. Miller
Secretary to the Director

Attention: Wesley Rucker

Subject: Telephone call from: Mr. X
[redacted]

In Reply - Address to
Attention: ______________________

Re: [redacted] Mr. A.
Youth Guidance Specialist I
Oklahoma Children's Center
Taft

(JM)(10-10-38)

Allegations of child molestation
and car theft

Mr. X [redacted] called this office demanding to talk to the Director and told secretary Terri Mackey that unless he could get some action he was going to the news media. He stated to me that the employee identified above had molested his daughter eight years ago in Tulsa, but that he was not prosecuted since his wife refused to cooperate. He states that within the past two years he has molested the daughters of [redacted] and [redacted] of [redacted], Muskogee. The three girls are aged 8, 9 and 11. He states that the Muskogee Police Department investigated this matter. He also stated that he molested the daughter of [redacted] approximately two years ago, but that this mother refused to press charges.

Most recently, he stated that within the past week Mr A [redacted] was involved in a car theft. He says that information on this allegation can be secured from Detective Summers and Detective Simmons of the Muskogee Police Department. He also stated that additional verification of this person's character could be secured through the District Attorney's Office in Tulsa. Mr. X [redacted] stated that he was calling from the home of [redacted] Mr. A's ex-wife. Mr. X [redacted] was told that we would look into the matter and that if this person is a permanent employee we would have to have information which would be grounds for termination which would stand up in a hearing or in court.

APPROVED FOR [illegible]
DATE 5-10-79
W

George A. Miller
George A. Miller
Secretary to the Director

GAM:jc

cc: Wesley Rucker
Chase Gordon
Harry Johnson
Tom Tucker
Clifford Burns
Pauline Mayer
LER Files
Miller Files

(**Example** 2.—Mr. B was employed at Taft. As the following memoranda indicate, Mr. B had a long criminal history including arrests for rape, kidnapping and possession of dangerous drugs.)

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To:	L. E. Rader Director of Human Services	Date:	November 4, 1981
From:	Charles Garrett Inspector General	Attention:	Wesley D. Rucker, Exec. Asst. Div. of Institutions and Community Services to Childr
Subject:	Mr. B [redacted] OCC Employee	In Reply—Address to Attention:	William T. Saxton Programs Supervisor

Please refer to OIG-1 Form dated 9-21-81, subject: Oklahoma Children's Center, which requested an investigation of sex and drug activities at OCC.

During the course of this investigation it was discovered that subject had a previous record in California that had not been filed in the National Crime Information Center under this name with a date of birth of [redacted]. A check with a District Attorney Investigator in Los Angeles, revealed that the subject had a criminal file under the birth date of [redacted], and a California driver's license number was provided as a result of one of the arrests. A check with the California Department of Motor Vehicles revealed that this driver's license listed the date of birth as [redacted] with Social Security number identical with that listed with the Department. The criminal record on file with the California Criminal Information Index also showed this same Social Security number. Double checks prove beyond a doubt that subject under both dates of birth are one and the same person.

The following is a listing of arrest and dispositions of criminal offenses listed against subject.

OFFENSE	DATE	CHARGED	CONVICTED
Vehicle Manslaughter	06-05-67	Yes	Yes/2 years Probation
Possession of Dangerous Drugs	02-20-67	Yes	Yes/3 years Probation
Driving Under the Influence	11-28-67	Yes	Yes/$100 fine
Traffic Offense	11-28-67	Yes	Yes/90 days County Jail
Miscellaneous Offense	08-16-68	Yes	No

Possession of Marijuana	11-16-68	Yes	Yes $120.00 fine
Forgery	09-04-71	Yes	Yes 3 years probation $250.00 fine
Rape by Force	09-13-72	Yes	Convicted by Jury
Kidnapping	09-13-72	Yes	Convicted by Jury Comitted to Prison 3 years to life
Possession of Dangerous drugs	09-13-72	Yes	Sentence stayed by Appeal/Served 4 years prison for Combined Offenses/Paroled 8-13-76/Discharged from Parole 2-78

Teletype from Los Angeles and California CII on file in the Office of Inspector General. Fingerprints also on file.

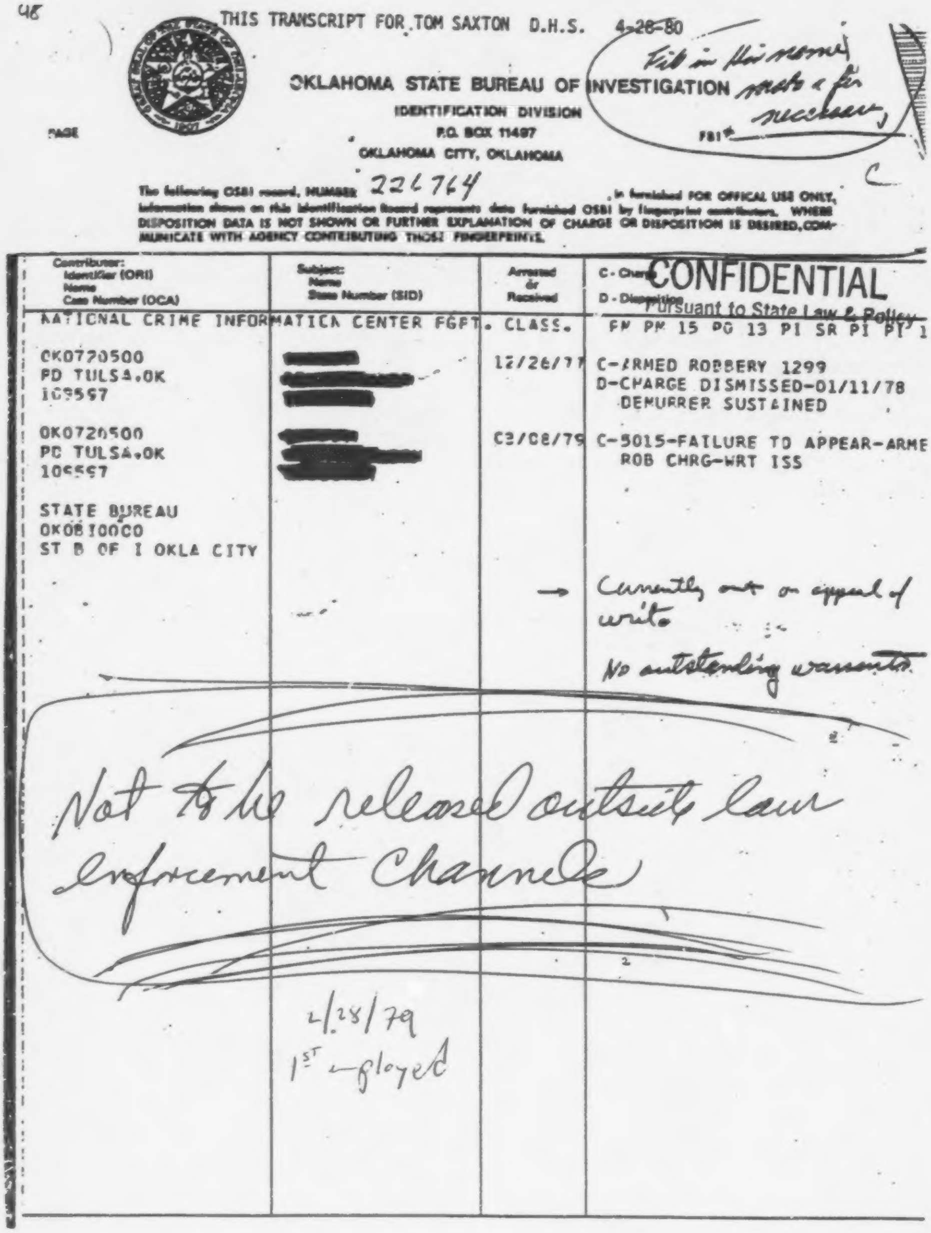
This is for your information and appropriate action. Subject had two additional possession of a dangerous drug counts for which he paid a fine after pleading guilty.

Charles Garrett
Charles Garrett
Inspector General

CG:WTS:rae

cc: LER File
Clifford Burns
Legal File
IG File

(EXAMPLE 3.—The memoranda which follow reveal that a social worker, employed first at Boley and later at the Rader Center, had charges pending against him for armed robbery. On March 8, 1979, a writ was issued after he failed to appear in court to face these charges.)



48

THIS TRANSCRIPT FOR TOM SAXTON D.H.S. 4-28-80

OKLAHOMA STATE BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
P.O. BOX 11497
OKLAHOMA CITY, OKLAHOMA

PAGE

Fill in his name make a file necessary

FBI

C

The following OSBI record, NUMBER 226764, is furnished FOR OFFICAL USE ONLY, information shown on this Identification Record represents data furnished OSBI by fingerprint contributors. WHERE DISPOSITION DATA IS NOT SHOWN OR FURTHER EXPLANATION OF CHARGE OR DISPOSITION IS DESIRED, COMMUNICATE WITH AGENCY CONTRIBUTING THOSE FINGERPRINTS.

CONFIDENTIAL
Pursuant to State Law & Policy

Contributor: Identifier (ORI) Name Case Number (OCA)	Subject: Name State Number (SID)	Arrested or Received	C - Charge D - Disposition
NATIONAL CRIME INFORMATICN CENTER FGPT. CLASS.			FM PM 15 PO 13 PI SR PI PI 1
OK0720500 PD TULSA.OK 109597	[redacted]	12/26/77	C-ARMED ROBBERY 1299 D-CHARGE DISMISSED-01/11/78 DEMURRER SUSTAINED
OK0720500 PD TULSA.OK 109597	[redacted]	03/08/79	C-5015-FAILURE TO APPEAR-ARME ROB CHRG-WRT ISS
STATE BUREAU OKOBI00C0 ST B OF I OKLA CITY			

→ Currently out on appeal of writ.

No outstanding warrants.

Not to be released outside law enforcement channels

2/28/79
1st employed

Our investigation revealed about one-half dozen cases in which employees were later found to have an extensive criminal record. These findings emerged from random contact rather than from systematic investigation. Despite the fact that American Correctional Association standards list as "essential" the conducting of a criminal record check for all employees of juvenile training schools, no such checks were apparently conducted prior to 1982. In accordance with the ACA standards, the Subcommittee advocates that criminal record checks be performed on prospective employees at juvenile institutions.

We strongly recommend that employment in settings which involve extensive, direct contact with juveniles be denied to those applicants with a criminal record of:

(1) continued violent activity;
(2) molestation or abuse of children;
(3) sexual offenses; or
(4) extensive histories in drug trafficking, dealing or possession.

It should be noted that the Subcommittee is not suggesting that past offenders who have been successfully rehabilitated be denied the opportunity to assist youth from embarking upon a criminal career. But, we emphasize that the care of troubled youth necessitates special treatment, patience, dedication, skill, and stability.

2. Training

In a number of cases, the Department's investigation of abuse allegations reveal that incidents occurred because staff was improperly trained. The most frequent lapse occurred in application of the "Mandt technique," which was designed to allow juveniles to be controlled without physical injury.

In the cases which follow, Departmental investigations attributed the abuse complaints to failure of Departmental employees to receive proper training or to employ proper Departmental policies or techniques.

B-81-5

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED 3-2-81 - 3-12-81 DATE OF REPORT 4-14-81
DATE ISSUE RESOLVED 3-17-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION BSSB
JUVENILES INVOLVED - IS-#
Jimmy [redacted] [redacted]
Stanley [redacted] [redacted]
Johnny [redacted] [redacted]
Ronald [redacted] [redacted]

STAFF AND CLASSIFICATION
[redacted] D[redacted] Y.G.S. III

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☒ Substantiated
☒ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☐ Physical ☒ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☐ Other
☐ Other	☐ Medical	
	☒ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: A meeting was held on March 17, 1981, with Mr. [redacted] D[redacted] Y.G.S. III, regarding his handling and methods of control in dealing with students. Those present at the meeting were Mr. Robert Buckner, Mr. Lawrence (Cont.)

FINDINGS OF ALLEGATIONS: Mr. D[redacted] acknowledged that he had in the past used the type of control as stated by the above named students. Mr. D[redacted] also stated that some of the things the students had complained about were not completely true but(Cont.)

ACTION TAKEN AT INSTITUTION: Mr. Buckner told Mr. D[redacted] that these type of allegations were too frequent and he expressed great concern due to this frequency of this method of control. It was explained to Mr. D[redacted] that there were numerous (Cont.)

INSTITUTION'S RESPONSE: See Attached

SIGNATURE: Robert Buckner TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT: The above named students have made no more complaints against Mr. D[redacted] regarding his methods of control.

☒ Resolved
☐ Not Resolved
☐ Other

Ronald [redacted] Stanley [redacted] Johnny [redacted]
SIGNATURE
Jimmy [redacted] - Paroled

ADVOCATE GENERAL'S COMMENTS: AG's office feels that the institution's administration effectively involved themselves in the disposition of the above complaint. No further action warranted.

Ted Morris
Acting Advocate General

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level ☐ Referred to State Office
☐ Unresolved ☐ Report Filed-No Additional Information needed
☐ Other

cc: Shafer
Daney
Student Defender

Attached Reports from:

#130

Okla. DISRS Issued 11-1-79 B-81-5 BLCSCY-1

DESCRIPTIVE STATE MENT OF ALLEGATION (Cont.)

Johnson and Ralph L. McReynolds. The following students had filed grievances with the student defender, Jimmy [redacted] 3-2-81; Stanley [redacted], 3-9-81; Johnny [redacted], 3-12-81; Ronald [redacted] 3-12-81 and several other students who wished to not be named as they feared reprisal from Mr. D[redacted] and other Y.G.S. staff in Washington cottage. These allegations were addressed as a group due to the fact that they were all basically the same in nature primarily regarding Mr. D[redacted] grabbing of students (by the shirt, jacket, back of the neck). Mr. D[redacted] pushing the students around when he had grabbed them and also Mr. D[redacted] threatening students. Example: smart off to me, boy, and I'll slap the shit out of you. None of the above students felt that they were actually abused by Mr. D[redacted] but felt that he was using inappropriate methods of control as they felt that he did not have sufficient reason to be grabbing a hold of them, threatening them, and pushing, etc. Mr. D[redacted] was explained the appropriate and inappropriate methods of control as found in the 1700 Series under 1734.25 and told that his methods of control were not deemed appropriate according to this section of the 1700 Series.

FINDINGS OF ALLEGATIONS (Cont.)

basically the complaints of the grabbing, pushing, threatening were true.

ACTION TAKEN AT INSTITUTION (Cont.)

methods of control that could be used rather than the grabbing of students. It was also explained to Mr. D[redacted] that he was the cottage manager and therefore an example for the staff in Washington Cottage and that in the future when problems did arise in the cottage that it would be to his benefit to utilize other staff members particularly when he felt that he might be reaching the point of becoming highly agitated. Mr. D[redacted] stated that in the future he will utilize other staff members to handle these type of situations in a different manner than he has in the past.

In conclusion Mr. Buckner told Mr. D[redacted] that he will keep his hands off students unless absolutely necessary and if he doesn't further action will be taken.

INSTITUTION'S RESPONSE

Mr. D[redacted] was very directly told by Mr. Buckner that he was to keep his hand off students unless absolutely necessary. The necessity of this need will only relate to matters of a self-defense in nature. Mr. D[redacted] was also cautioned that in the event that additional complaints of this nature were made by students more severe disciplinary measures will be taken.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

B-81-3.

DATE ISSUE REPORTED 2-3-81
DATE ISSUE RESOLVED 2-4-81

DATE OF REPORT 2-9-81

ADVOCATE DEFENDER'S REPORT

INSTITUTION BSSB
JUVENILES INVOLVED - IS-#
Keith [redacted]

STAFF AND CLASSIFICATION
Mr. [redacted] S[redacted] YGS

TYPE OF REPORT

☐ Grievance
☐ Policy Violation
☒ Abuse ☒ Physical ☐ Verbal
☐ Policy Clarification
☐ Other

AREA OF ISSUE

☐ Hearings
☐ Detention
☐ Limited Privileges
☐ Disciplinary Measures
☐ Medical
☒ Living Conditions
☐ Other

FINDINGS OF ALLEGATIONS

☐ Substantiated
☐ Not Substantiated
☐ Unfounded
☐ Other Inappropriate method of control used by YGS

DESCRIPTIVE STATEMENT OF ALLEGATION: See Attached

FINDINGS OF ALLEGATIONS: See Attached

ACTION TAKEN AT INSTITUTION: See Attached

INSTITUTION'S RESPONSE: See Attached

SIGNATURE: Robert Buckner TITLE: Supt.

JUVENILE'S RESPONSE & COMMENT: Keith feels the incident has been taken care of.

☒ Resolved
☐ Not Resolved
☐ Other

Keith [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A juvenile alleged being physically abused by an employee. Remarks by a juvenile ("fag-why don't you do something") and clinching of fists provoked the YGS into grabbing the juvenile's neck, holding him on the floor and removing him from the dorm with a headlock. Due to the juvenile's provocative behavior, intentional abuse was not indicated. However, the YGS received a verbal reprimand, a report was placed in the YGS' institutional personnel file. The Superintendent felt the YGS lost his composure and acted in a less than professional manner.

John Leite

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office
☒ Report Filed-No Additional Information needed

#95

Attached Reports from:

cc: Shafer
Buckner
Student Defender

B-81-3

Okla. DISRS Issued 11-1-79

BICSCY-1

DESCRIPTIVE STATEMENT OF ALLEGATION

Keith [redacted] alleged that at approximately 8:00 P.M. on February 3, 1981, he was abused by Mr. [redacted] S[redacted], YGS. It is Keith's contention that Mr. S[redacted] used more force than was necessary when this incident took place in Eisenhower Cottage. Keith's full account of this incident is as follows. I was talking to Mr. S[redacted] and he's always saying how he's going to knock us out or hurt us. I said since you're so bad why don't you ever do it. Then he thought that I'd called him a fag and he jumped up and came over to the chair that I was sitting in. I started to stand up and he grabbed the back of my coat and pushed me down to the floor, then he let me go and when I got up he grabbed me by the neck, kind of like a head lock hold and then carried me out of the hall though my feet were touching the floor as I went out. When Mr. S[redacted] grabbed me by my neck he left two marks on my neck though I was not hurt. Keith maintains the position that he did not provoke Mr. S[redacted] in any way.

FINDINGS OF ALLEGATIONS

Mr. [redacted] S[redacted] gave the following account of the incident. When I first walked into Eisenhower Cottage Keith started making smart remarks real low where I could barely hear them and when I would ask him what he was saying he would say he was talking to himself and then when a student would walk behind my back or by me Keith would say Mr. S[redacted] he called you a dirty son of a bitch or snaggled tooth bastard and this went on for quite some time. I kept telling Keith now be quiet I don't want to hear it if a boy has said something I want to hear it from him not from you because a lot of time I'm looking at the boy Keith says is calling me names and he is not. Keith does this just to show off in front of the students in the cottage as they all laugh and giggle after he makes his little remarks. This finally got to me last night. I'll admit the students got me where they wanted me last night. I was sitting in the chair by the desk and Keith was talking with some other students and I kept hearing my name mentioned and directly I heard Keith say S[redacted] a fag and it just got to me right then. I just couldn't handle it anymore. So I got up from my chair and went over to the chair Keith was in and said Keith don't call me a fag and Keith started trying to say that he didn't say it that he was saying something else. I told Keith I heard what he said and that he had called me a fag. I was right in front of Keith and he started to get out of the chair he was in with his hands at his sides doubled up like he was going to hit me and I wasn't going to let him hit me and the only thing I could think of was grab him and hold him down so I grabbed him by his coat and pulled him down to the floor and held him there. He started saying let me up so I let him up and sat him back in the chair. He kept trying to get up and had his fist doubled up so I pulled him down to the floor again because I wasn't going to let him hit me. He started yelling, cursing and raising cain. I said lets go outside and talk about it. So I let go of his jacket and just slipped one arm around his head and had my other arm on his shoulder so he couldn't hit me and took him outside. I didn't drag him but I did have him in a head lock. Once outside I started talking to him and told Keith ever since he got back this second time he had resented my for some reason. Whenever I walk into the cottage you start making wise cracks all the time and I told him I don't call you names and I don't expect you to call me names. I talked to him in the hall for about 30 minutes trying to find out what the problem was but I never did actually find out why Keith exhibited this type of behavior towards me. I also told Keith there was no way in the world that I would hurt him or let anybody else but I wasn't going to just sit around and let him call me names or anybody else for that matter.

Mr. S[redacted] made the following comments regarding this incident. 1. I didn't attempt to hurt Keith in any way as he wouldn't be anything for me to hurt (Mr. S[redacted] is referring to the size difference between the two). 2. I didn't apply any excessive pressure to Keith only enough to remove him from the cottage. 3. The only reason I did what I did was to keep him from hitting or hurting me. 4. I am sorry this happened as I don't enjoy putting my hands on any student. 5. I was aggravated to the point that I let it get to me. In similar incidents I have acted in more appropriate ways but this time it just got to me. 6. I just wish I had handled this incident different but I just let it get to me this time.

Darryl [redacted] (student) gave the following account of the incident. Mr. S[redacted] came into the cottage and Keith started playing with Mr. S[redacted] telling him to whip him if he could and things like that. Mr. S[redacted] kept telling Keith to quit playing and Keith wouldn't do it, he continued to aggravate Mr. S[redacted]. Then Keith called Mr. S[redacted] a fag and thats when Mr. S[redacted] seemed to get mad. He walked over to where Keith was sitting and asked him what he had called him and then Mr. S[redacted] grabbed Keith by his jacket and pushed him down to the floor he then let Keith get up and put him in a head lock and then took him outside. When Mr. S[redacted] took Keith outside he didn't drag him or anything like that, Keith just walked to the hall with him. Darryl stated the reason he thought this happened was that Keith was just playing too much with Mr. S[redacted] and wouldn't stop when he was asked to.

Carl [redacted] (student) gave the following account of the incident. Mr. S[redacted] and Keith were talking and Keith kept trying to aggravate Mr. S[redacted] which he does all the time and Mr. S[redacted] kept telling him to quit and then Keith said to Mr. S[redacted] you think you're so bad why don't you do something about it, and things to that effect. Then Mr. S[redacted] went over to where Keith was sitting and Keith had his fist doubled up and acted like he was going to hit him and Mr. S[redacted] grabbed Keith by the jacket and pushed him down to the floor. Keith kept talking so Mr. S [redacted] kind of let him up and put him in a headlock and took him outside.

Jon [redacted] (student) gave the following account of the incident. Mr. S[redacted] and Keith were playing at first and Mr. S[redacted] made a remark to the effect that he could whip all the boys in the cottage with one hand or something like that and then Keith said if you're so bad why don't you do something about it. And then Mr. S[redacted] came over to the chair Keith was sitting in and asked him did you call me a fag and Keith said that he did not that he was talking to someone else. Jon said that he did not hear Keith call Mr. S[redacted] a fag. Then Mr. S[redacted] grabbed Keith by the jacket and pulled him down to the floor. Keith started saying something and then Mr. S[redacted] lifted him back up in the chair but never really letting go of him and then Keith started saying something else and Mr. S[redacted] again pushed him back down to the floor by the jacket and then lifted Keith up and put him in a headlock taking him outside. Jon stated Mr. S[redacted] did not drag Keith out of the cottage when he had him in a headlock but that Keith did kind of stumble a time or two as they went out.

ACTION TAKEN AT INSTITUTION

A conference was held with Keith [redacted] along with the following staff: Jim Erdman, Deputy Superintendent, Lawrence Johnson, Cottage Life Supervisor, and Ralph McReynolds, Advocate Defender. Keith [redacted] alleged that Mr. [redacted] S[redacted] abused him on 2-3-81.

A conference was also held with Mr. [redacted] S[redacted] along with the following staff: Mr. Jim Erdman,Deputy Superintendent, Lawrence Johnson, Cottage Life Supervisor, Donald Williams, Cottage Coordinator and Ralph McReynolds, Advocate Defender. Mr. S[redacted] was able to admit that he over-reacted to continued verbal abuse by Keith [redacted]. He stated that he didn't maintain his composure in this situation. There was no attempt on Mr. S[redacted] part to intentionally harm this student. Various alternatives were pointed out to Mr. S[redacted] that he could have used rather than over-reacting in the situation. His responses were favorable to these suggestions.

INSTITUTION'S RESPONSE

Mr. S[redacted] was very open and honest in revealing his behavior in this situation. Also, there was no injury involved. Mr. S[redacted] has been verbally reprimanded concerning his behavior in this matter and no further disciplinary action is recommended at this time. However, this incident will be recorded in Mr. S[redacted] personnel file.

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Robert Buckner, Superintendent
Boley State School for Boys

Date: February 6, 1981

From: Jim Erdman, Deputy Superintendent
Lawrence Johnson, Cottage Life Supervisor

Attention:

Subject: Incident Involving [redacted] S[redacted]
and Keith [redacted]

In Reply - Address to
Attention: ______________________

After reviewing interviews concerning the above named incident, the following assessments and recommendations are forwarded:

1. Mr. S[redacted] overreacted to continued verbal abuse by student.
2. Mr. S[redacted] acted inappropriately by presenting himself in a situation which could lead to physical confrontation.
3. Mr. S[redacted] should have recognized the students deliberate attempt to provoke him and remained calm and soft spoken.
4. Mr. S[redacted] should have used physical restraint maneuvers as taught in the "Mandt" training once the situation escalated to the point of restraint being necessary.
5. Mr. S[redacted] should be scheduled to re-train in the "Mandt" principles of client management.

Considering Mr. S[redacted]s honesty in admitting his inappropriate behavior and the fact that no injury was involved, no further disciplinary action is recommended at this time other than the recording of this incident in Mr. S[redacted]s file.

It should be noted that this incident was likley connected with the removal of doors from detention and the subsequent testing of detention policies by students.

Jim Erdman
Jim Erdman, Deputy Superintendent

Lawrence Johnson
Lawrence Johnson, Cottage Life Supv.

JE:LJ:ldm

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

DATE ISSUE REPORTED December 22, 1981 DATE OF REPORT January 4, 1982
DATE ISSUE RESOLVED December 28, 1981

ADVOCATE DEFENDER'S REPORT

INSTITUTION C.O.J.T.C. - Tecumseh

JUVENILES INVOLVED - IS-#
[redacted], Shane IS-G 2928

STAFF AND CLASSIFICATION
Mr. C [redacted] - Security
Mr. V [redacted] - Recreation Worker

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☒ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☐ Other
☐ Other	☐ Medical	
	☒ Living Conditions	
	☐ Other	

DESCRIPTIVE STATEMENT OF ALLEGATION: Shane stated that while being seperated from another student while involved in a fight, the above security guard used excessive force in that he placed one hand on his neck and twisted one arm behind, his back.

FINDINGS OF ALLEGATIONS: According to [redacted] V[redacted] [redacted], recreation worker, after the fight broke out, Shane was pulled off the other student by Mr. C[redacted]. After she kept the other student away from Shane, she went to check on Shane. He was still (over)

ACTION TAKEN AT INSTITUTION:

INSTITUTION'S RESPONSE:
Involved Employee will be scheduled in first Mandt session

SIGNATURE: TITLE:

JUVENILE'S RESPONSE & COMMENT:

☒ Resolved
☐ Not Resolved
☐ Other

Shane [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: A student felt excessive force was used by staff when they intervened in a fight. Placing of one hand on the neck and twisting of one arm behind the back does not appear to be excessive although a different method would have been preferred. The accused employee had been recently hired and was scheduled to receive Mandt training during the latter part of the month. Further inquiry into the matter was not warranted.

FINAL DISPOSITION OF GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level ☐ Referred to State Office
☐ Unresolved ☒ Report Filed-No Additional Information needed
☐ Other

Attached Reports from:

cc: DIS-SO
Thomason
Thornton
2-8-82

ORIG. DISRS Issued 11-1-79 BICSCY-1

(FINDINGS OF ALLEGATIONS - CONTINUED)

in the grasp of Mr. [redacted]. According to her he had one of Shane's arms up behind Shane's back and the guard had one of his arms around Shane's neck. Mr. [redacted] was asked to write a report concerning the incident, but failed to do so.

The student representative talked to George Halbert, C.O.I.S., and it was learned that Mr. [redacted] was a new employee and had not received the Mandt Training but was scheduled for training in January. It is my conclusion that improper methods were used in this instance in seperating two fighting students. Proper training for the security man should alleviate future instances of this nature. Although there appears to have been excessive force employed because of a lack of training, it does not appear intentional in nature.

RECEIVED
JAN 14 1982
SERVICES

RECEIVED
JAN 14 1982

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

GM 80-55

DATE ISSUE REPORTED 9/22/80
DATE ISSUE RESOLVED

DATE OF REPORT 9/26/80

ADVOCATE DEFENDER'S REPORT

INSTITUTION LEPC
JUVENILES INVOLVED - IS-#ED-1822
Mike [redacted]

STAFF AND CLASSIFICATION
Mr. [redacted], maintenance

TYPE OF REPORT	AREA OF ISSUE	FINDINGS OF ALLEGATIONS
☐ Grievance	☐ Hearings	☐ Substantiated
☐ Policy Violation	☐ Detention	☐ Not Substantiated
☒ Abuse ☒ Physical ☐ Verbal	☐ Limited Privileges	☐ Unfounded
☐ Policy Clarification	☐ Disciplinary Measures	☒ Other
☐ Other	☐ Medical	
	☐ Living Conditions	
	☒ Other Undue force to subdue student.	

DESCRIPTIVE STATEMENT OF ALLEGATION: Student alleges undue force used to subdue him. See attached.

FINDINGS OF ALLEGATIONS: Juvenile and witness maintain undue force was employed.

ACTION TAKEN AT INSTITUTION: The employee has been cautioned and we will make certain all new employees understand that this type of action is prohibited.

√ INSTITUTION'S RESPONSE: This incident involved a new employee who may have been unfamiliar with our procedures. This will be discussed with him and he will be cautioned about using unnecessary roughness. It is not usual for maintenance to assist in this type of situation, but this was an exceptional evening.

SIGNATURE: Richard A Blanks TITLE: Institutional Superintendent

JUVENILE'S RESPONSE & COMMENT: I am satisfied with the action taken - this time. But if it happens again I plan to take my complaint higher than the superintendent.

☐ Resolved
☐ Not Resolved
☐ Other

Shirley Ward-Beio
Shirley Ward-Beio, A.D.

Mike [redacted]
SIGNATURE

ADVOCATE GENERAL'S COMMENTS: Eight JVs broke a window from Gemini Cottage and went AWOL. One JV was apprehended and returned to the cottage. Due to the acute shortage of staff on the cottage (others were chasing AWOLS), a new inexperienced maintenance employee entered the cottage and assisted in subduing a juvenile who had a shirt around his neck in the DT room. Since the juvenile was not injured and there was no indication of intent to abuse the juvenile, no further action was neede.

FINAL DISPOSITION OF
GRIEVANCE/INVESTIGATION

☐ Resolved at Inst. Level
☐ Unresolved
☐ Other

☐ Referred to State Office John Leite
☒ Report Filed-No Additional Information needed

Attached Reports from:

Okla. DISRS Issued 11-1-79

BICSCY-1

#20

DE-80-55

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Lloyd E. Rader, Director
Department Of Human Services

Date: October 2, 1980

From: Shirley Ward-Beio
Advocate Defender

Attention: Chase Gordon, Supervisor
Special Attention: John Leitka, BICSCY

Subject: [redacted] Mike
[redacted]

In Reply - Address to
Attention: Shirley Ward-Beio

On September 22, 1980, the AD met with Mike [redacted] relative to allegations by the Cottage Committe toward Mike's placement in detention. During the course of that visit, Mike stated that he had been abused by "a guy - and I don't know his name" who had come into his room to remove a shirt from around his neck.

Due to circumstances beyond Mike's control, he has not been allowed a pencil - and therefore has not written a statement. However, the YGS on duty, Steve Pace, witnessed the incident and has written a statement. The Advocate Defender interviewed the YGS ([redacted]) ([redacted] Pace), the student, Mike [redacted] and submits the following statement.

Around 6:00 p.m., September 21, 1980, eight juveniles broke a window out of Gemini Cottage and ran toward the river. Mike [redacted] was the last out the narrow window and was immediately apprehended, returned to the cottage and placed in detention. With so many students out, a number of staff were called to assist security in locating and returning students to the campus.

A short time after Mike was returned, [redacted] Pace [redacted] observed that Mike had his shirt tied around his neck. Since [redacted] was working the cottage alone, he called for assistance. Several minutes went by before he called a second time. He did not feel comfortable in assuming any additional responsibilities (leaving students unsupervised while he entered detention area). YGS Pace [redacted] opened detentions hall door and stood at Cottage entrance - door in order for CLS, etc. to enter easily and save time in getting to Mike's room.

Mr. [redacted] C[redacted] was the first to enter the cottage followed by "Bill," and "Buddy." (YGS [redacted] works more than one shift, is relatively new and does not know all of CLS/Security staff yet). The Advocate Defender has learned that Bill Chance (YGS on Friendship Cottage) and Buddy Dildy (CLS) were both on duty at the time and did answer the call to Gemini.

The Advocate Defender interviewed Buddy Dildy and, according to Dildy, radio personnel were advised to change frequencies in order to keep up with the AWOL activity. Inadvertently, the operator missed the message and did not get through to Buddy because her radio was still on usual frequency. Mr. [redacted] C[redacted] was in the reception area and the operator sent him to Gemini to see if he could be of assistance.

Buddy stated that he met Mr. C. [redacted] enroute to Gemini and joined him. Buddy called Bill (D.W.) Chance on Friendship Cottage to join him at Gemini. Buddy further stated that he felt additional help necessary due to the fact that he was the only security on campus because of the AWOLs.

Mike stated that three men entered his room and ([redacted]) fell on him with all his weight on Mike's stomach. The man had his right knee in Mike's stomach, then, when Bill and Buddy had hold of his legs and arms, the man ([redacted]) lurched upon Mike's chest with his right knee and then onto his head - pressing the side of his head to the concrete floor. Mike further stated he did not fight the men although he did try to squirm under his bed to get away after [redacted] Mr. C. jumped on him with the knee.

YGS Pace stated that, at first, he thought Mr. C[redacted] was an emergency professional employee who was trying to restore breathing with his "treatment" of Mike but began to realize that Mike had been breathing but was (at that point) beginning to "turn pale or bluish." Pace further stated he thought the man was doing more harm than good and contemplated interferring.

Buddy Dildy stated that the student had nothing to complain about because C[redacted] "saved his life." He further stated that he (Dildy) was sure that C[redacted] "straddled" the boy - and that he did not see C[redacted] put his knee on Mike. He further stated that he was "glad to have the help," since he was expected to cover the entire campus while everyone else was involved in the AWOL pursuits.

Ron Talbert, C[redacted]s supervisor, was notified of the complaint. Ron stated that his staff is sometimes called to assist in AWOL pursuits and that was the case on the evening of September 21, 1980. Perhaps some clarification is needed relative to what extent "recalled" maintenance personnel get involved with behavior problems in cottages.

Shirley Hurd-Baird

SWB:jm

H-80-24

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: L. E. Rader, Director
Institutions, Social and
Rehabilitative Services

Date: February 8, 1979

From: John Leitka, Jr., Asst. Coordinator
Bureau of Services to Children
and Youth

Attention: R. Chase Gordon, Coordinator

Subject: [redacted], Tracy
[redacted] YGS Mrs. A
Helena State School for Boys

In Reply - Address to
Attention: ______________

Mrs. A[redacted] works with her husband in Helena's limited privilege cottage. Both Mr. and Mrs. A[redacted] are on emergency appointment; Mr. A[redacted] has worked for the institution about five months and Mrs. A[redacted] has worked there about two months; Mr. A[redacted] is twenty years old and Mrs. A[redacted] is twenty-one.

On 2-4-79, Mrs. A[redacted] was accused of slapping, scratching and biting a juvenile, Tracy [redacted]

On 2-6-79, the following people were interviewed relative to this incident: Superintendent Snowbarger, Mr. and Mrs. A[redacted] their supervisor, Mr. Ron Norton, and juveniles Tracy [redacted], Kevin [redacted], and Jim [redacted].

Mrs. A[redacted] admitted to slapping Tracy, scratching him and biting his shoulder. According to Mrs. A[redacted] she was so provoked by Tracy she just lost control of her temper. Mrs. A[redacted] said she had read the 1700 series of the Manual, and understood the section on appropriate and inappropriate methods of control.

The incident apparently began over the issue of the keys to the limited privileges cottage. Mr. A[redacted] who was also on duty at the time, had the keys stolen from him twice during afternoon of 2-4-79. The first time they were taken, Tracy returned them to Mr. A[redacted] from his pocket; the second time Tracy showed Mr. A[redacted] where the keys were hidden in a pepper jar in the kitchen. At some point during the afternoon Mrs. A[redacted] told Tracy she saw him jingling the keys and he called her a liar. From this point on a running argument took place between Mrs. A[redacted] and Tracy.

Mrs. A[redacted] said that Tracy called her a Black bitch and she slapped him first. She said that after she slapped Tracy that he hit her in the eye. Tracy denied hitting Mrs. A[redacted] but Mr. A[redacted] and Kevin [redacted] support Mrs. A[redacted] version that Kevin did hit her. Mr. A[redacted] and some of the juveniles separated the two and restored order. Tracy was not punished for his part in the incident. Mrs. A[redacted] said she bit Tracy because he was holding her around the waist and she wanted him to turn loose; Tracy said he was merely trying to hold Mrs. A[redacted] away from him.

Mr. A[redacted] said that when the fight started he was sitting on the couch watching television. Kevin [redacted] and Tracy [redacted] said he was asleep on the couch and that someone, no one would say

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H-80-24

67

who, took the keys from Mr. [redacted] when he was asleep.

Mr. Snowbarger and Mr. Norton both felt that Mrs. [redacted] shows more promise as an employee that does Mr. [redacted]. Both Mr. and Mrs. [redacted] are young, not much older than the juveniles themselves, and it is recommended they not be used in a detention type setting.

The emergency appointments held by the [redacted] are due to expire in February, 1979. It is recommended that these appointments not be renewed.

JLJ:JB:jr

cc: Shafer
Norwood
Midkiff

John [illegible] Jr.

2-15-79 Shafer + Gordon recommended emergency appointment be allowed to expire at the end of Feb '79.

JL

ok/cj

G. CRIMINAL CONDUCT WAS NOT REGULARLY REPORTED TO LAW ENFORCEMENT AUTHORITIES

Oklahoma law makes it a crime to "permit" any person to injure, torture, maim or use unreasonable force upon any child under 18. (Title 21, section 843). Another statute provides that all incidents of suspected child abuse be reported to proper authorities. Specifically section 846 of title 21 requires that:

> "[E]very other person having reason to believe that a child under the age of eighteen years has had physical injury or injuries inflicted upon him or her . . . where the injury appears to have been caused as a result of physical abuse or neglect, shall report the matter promptly to the county office of the Department of Human Services.
>
> "The county office receiving any report as herein provided shall immediately investigate said report and forward its findings to the district attorney's office in the county wherein the suspected injury occurred together with its recommendation as to disposition."

In April of 1976, a consulting attorney for the Department issued a legal opinion on the question whether there was "a conflict in the Oklahoma statutes relative to procedures in reporting complaints of child abuse or allegedly unreasonable disciplinary actions perpetrated upon minor children who are residents of a Department child caring facility." The consulting attorney found that, "If it appears that a criminal offense has been committed upon such child, a report should be made at once to the local law enforcement officials."

The question whether or not such referrals were in fact made to local authorities was raised during the Subcommittee's investigation. When the Subcommittee staff questioned Mr. Rader, they were assured that such referrals had in fact occurred:

Ms. **Westmoreland**. You mentioned a little bit ago that serious incidents of abuse are reported to you, and you are aware of it, that abuse is now reported to the local DA? District Attorney?

Mr. **Rader**. It has always been the policy, and many have over the years.

Ms. **Westmoreland**. Do you remember any specific examples where those reports have been made to the District Attorney?

Mr. **Rader**. Not the name of the child.

Ms. **Westmoreland**. Would you have any estimate of how many incidents have been reported?

Mr. **Rader**. I don't have any statistics.

Ms. **Westmoreland**. I am not trying to badger you, Mr. Rader, I am just trying to . . . because sometimes you can remember that there were a lot or a little, where you can't remember a number, and my question is does it seem like there were a lot that were reported or there was just a few that were that serious?

Mr. **Tucker**. Would this be something that would be reflected by a record that perhaps you can refer to?

Mr. **Rader**. Yes, I guess it would be reflected in state office records up here, but I am not privy to specific information.

Ms. **Westmoreland**. So that we can find those records most easily, do you have any idea what sort of state office records would reflect that?

Mr. **Rader**. I can refer you to Dr. Baumberger and their assistants, Mr. Rucker and Mr. Campbell.

Ms. **Westmoreland**. Do you think that Dr. Baumberger or Mr. Rucker or Mr. Campbell could direct me to the document that would reflect reports to the local DA's?

Mr. **Rader**. I'm almost sure they could.

Mr. **Tucker**. So we can anticipate, Mary Louise would you like for me or Mr. Rader following the interview to go ahead and put that in motion so that you can see whatever it may be?

Ms. **Westmoreland**. I would appreciate that.

Mr. **Tucker**. All right, I will make the arrangements.

On April 26, 1982, the Subcommittee formally requested that the Department provide copies of all documents which reflected or constituted referrals by or on behalf of the Department of Human Services to local law enforcement authorities or to the Division of Child Welfare of allegations or incidents of child abuse occurring at juvenile institutions maintained by the Department.

On May 21, 1982, the Subcommittee received copies of approximately 22 referrals, the earliest of which was dated February 26, 1982. These were accompanied by a memorandum prepared by Department officials. According to that memorandum:

"Prior to March 1, 1982, referrals to local district attorneys were handled at both the institutional level by the institutional superintendents, and through the State Office, usually by the Office of the Inspector General. No standard form was used for these referrals, and in many cases the referrals were made by telephone or by personal contact with personnel in the office of the local district attorney. In some cases, the referrals will be reflected in the incident files maintained by the Office of the Advocate General or the Office of the Inspector General."

The Subcommittee review of the files revealed only two cases prior to 1982 where abuses were referred to outside authorities (both were referred to the Child Welfare Division). However, the standard forms for referral under the new 1982 policy which were attached to the Department's memorandum were marked "Issued 11-15-77."

The memorandum concludes:

"Since March 1, 1982, the Division of Child Welfare has been responsible for investigating all child abuse allegations in connection with institutions operated by the Department. In each county where a Department institution is located, a specific child welfare worker is assigned responsibility for institutional investigations. This special welfare worker is on call at all times. The results of all investigations whether substantiated or unsubstantiated are routinely submitted to the local district attorney's office on Form DCW-14-A or by letter. In some instances, the child welfare worker will make personal contact with the local district attorney's office prior to formal submissions of the referral form."

IV. Conclusion

Since the Subcommittee began its investigations the Oklahoma Legislature has enacted remedial legislation and Lloyd Rader has been replaced as Director of the Department of Human Services by Henry Bellmon. The Subcommittee is hopeful and confident that these changes will help to correct the problems detailed in this report.

The Subcommittee continues to believe that the deinstitutionalization of non-delinquent youth and the removal of juveniles from adult jails are critical to the establishment of an effective justice system. The Subcommittee thus encourages Oklahoma and the five other non-participating states to become a part of the federal program administered through the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

PART II.—SUBMISSION BY LEGAL AID OF WESTERN OKLAHOMA

STATEMENT TO THE UNITED STATES SENATE SUBCOMMITTEE ON JUVENILE JUSTICE

BY STEVEN A. NOVICK

My name is Steven A. Novick. I am an attorney employed by Legal Aid of Western Oklahoma as its Deputy Director, a position I have held for more than three years. Altogether, I have worked for the Legal Services program in Oklahoma City for seven years. During the last five years, I have specialized in the legal representation of children and their families, both in local juvenile courts and federal court.

Due to my interest in chidren's rights, I was primarily responsible for the investigation and filing of Terry D., et al. v. L.E. Rader., et al. in the United States District Court for the Western District of Oklahoma. The case was filed on January 4, 1978 following nine months of investigation. The lawsuit is a federal constitutional challenge to many of the conditions and practices presently being investigated by the Subcommittee.

I have obtained copies of the written statements of officials from the Oklahoma Department of Human Services, and have been invited by the Subcommittee to prepare this statement in response to those made by Department officials. I feel compelled to make this statement because these Department officials have painted a picture of Oklahoma's juvenile system and the children in it that is grossly misleading and inaccurate.

By way of background, I would like to relate some of my personal observations made during investigation of the Department's child care institutions.

As a result of stories related to me by several juvenile court clients concerning the use of solitary confinement, I paid an unannounced visit to the Taft State Children's Home in April, 1977. At that time, Taft consisted of two institutions, the South Campus, a converted mental institution; and the North Campus, the facility presently in operation.

At the South Campus, I observed and talked to children who were locked in solitary confinement cells. These cells were totally bare and contained no toilets, wash basins or beds. The children had been stipped to their underwear and given only a blanket. One child had been in such a cell for 13 days. To go to the bathroom required pounding on the cell door to gain the attention of the staff on duty. I was told by two children that the staff did not always respond to these "calls" to go to the bathroom. I observed approximately 20 such cells in use. The population at South Campus at that time was approximately 200 children consisting of both non-offenders and delinquents.

At the North Campus, I inspected a two story dormitory known as Bay Hall, which housed about 80 children. It had two solitary cells, one upstairs and one downstairs. The downstairs cell was located near the bathroom and reeked of feces and urine. It, like the cells at South Campus, had no bed, toilet or other furnishings. Looking through the remainder of the building, I observed many windows broken out; some had been covered with plywood boards. There were broken plaster ceilings and walls, exposed electrical wiring and broken and leaking plumbing fixtures; the stench of human excrement and sweat pervaded the entire building. In my opinion, the dormitory was not fit for human habitation.

In what was called the junior boys dorm, there was one solitary cell with heavy metal grating covering the windows. There was no bed or toilet. At the time of my visit, a child was locked in the cell for running away - he was 10 years old.

In a building called the Main Dorm, which was for girls, there were two solitary cells. They were completely bare and had no toilet. The windows were boarded up completely. In one cell, the heater was on and the temperature must have been over 100 degrees. I was allowed to review the detention log at the North Campus. It reflected that scores of children had been locked in solitary confinement for up to seven days for such misbehavior as running away, tatooing, skipping school classes and talking back to a houseparent.

I concluded, following this visit to Taft, that some action was necessary to improve these conditions. I then began to scrutinize the other institutions for children.

In November, 1977 two lawyers from the National Juvenile Law Center in St. Louis accompanied me to Taft and Boley to inspect these facilities. These lawyers had been involved in a number of cases involving juvenile institutions, and they advised me that the Oklahoma facilties at Taft and Boley were among the worst they had seen. My investigation of Helena and Girls' Town revealed similar, and in many cases worse, conditions than those observed at Taft and Boley. It was against this backdrop that the lawsuit was filed.

In the several years that followed, the horrors that I had seen with my own eyes grew as more and more information was accumulated through discovery. For example, in the five years from 1976 through 1980, according to DHS records, children at Helena were locked in solitary confinement on at least 3493 separate occasions, the longest for 108 days; sentences in solitary of 10-20 days were common. These Helena solitary cells were dark and dingy, and contained about 40 square feet of space. There were instances where children were double and triple celled in these cramped cells. I wonder if Dr. Rettig* would characterize this kind of mistreatment as a "battle for survival and dignity"? At Whitaker, an institution primarily for non-offenders, there were at least 1292 solitary lock-ups for 1978 alone!

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* Dr. Rettig is a Ph.D. sociologist employed by DHS as a trainer. He gave a written statement of testimony to the Sub-committee characterizing Oklahoma's juvenile justice system as "one of the finest...systems in the United States," and accusing the youngsters of lying to gain attention.

The record is replete with evidence of hog-tying, a method of physical restraint where hands are cuffed behind the child's back, feet are shackled, and the hands and feet are then trussed together with a strap or chain. Apparently, Dr. Rettig does not consider hog-tying to be terrorizing or abusive. As late as June, 1981, when asked to demonstrate the "routine" method of restraint at Boley, the staff member on duty proceeded to hog-tie one of my co-counsel.

Despite the fact that many children confined at Taft have special education needs, there have been long periods of time when the school at that institution did not even have a special education teacher on their staff. Furthermore, after reviewing the educational program at COJTC in 1981, experts in the field of special education and vocational training called it "one of the worst educational systems" they had ever seen.

Such observations are not limited to experts engaged by the plaintiffs in the lawsuit. For example, the following exchange took place during a deposition of Dr. Leah Taylor, an expert psychological consultant for DHS:

> Q. [By Mr. Novick] "What would be the substance of your professional testimony concerning the adequacy of the psychological treatment programs at Boley?
>
> A. That it's highly inadequate.
>
> Q. On what specific basis would you make that conclusion?
>
> A. It appeared to me that the professional staff did not have the qualifications and training that would lend themselves to the creation of an adequate treatment program. The psychiatrist only comes once a month as I said before, which is inadequate for that facility. The groups that I did sit in on were led by individuals who were called social workers but who did not seem to have the skills to run a group. It appeared to me that it was more like running a meeting. As I said before, that was better than what the kids had in the past and that they had a forum in which at least to express

> some feelings and some ideas, but it was not a group. It wasn't group therapy as professionals have come to know what group therapy means. It wasn't facilitative to growth."

Don Rushing, the former educational coordinator for DHS institutions, admitted at his deposition that DHS was actually violating several provisions of the state educational code at its children's institutions.

Moreover, I have reviewed DHS reports which substantiate the distribution of dangerous drugs to children by staff, sexual relations between staff and youngsters and case after case of physical abuse, including the sanctioned practice of beating youngsters with wooden boards in the institutional schools.

These are but a handful of examples of the brutal conditions and grossly inadequate programs that have existed at Oklahoma's juvenile institutions. It is incredible to me in light of these few examples, which represent only the "tip of the iceberg", that Mr. Rader can assert "we operate good juvenile facilities in Oklahoma." Mr. Rader's further statement that "we have highly qualified professional staffs" is repeatedly contradicted by his own top juvenile aides and experts in deposition testimony.

At this point, I would like to specifically respond to some of the testimony given to the Subcommittee by various DHS officials.

Record Keeping

Throughout the hearings, reference was repeatedly made to the claim that all matters of abuse and discipline are documented and filed, the implication being that if there is nothing in the record then *ipso facto* it did not occur. This assertion is contradicted both by my own observations and by the findings of DHS evaluators. Many instances have been found where incidents of abuse, solitary confinement, restraint and involuntary drugging have occurred, but are nowhere recorded. Other instances exist where records have been destroyed by DHS personnel. For example, during Superintendent Norwood's tenure at Helena, all security records mysteriously disappeared; and following a request for COJTC medical records, where involuntary drugging was suspected, approximately 90% of those records were "accidently" incinerated by personnel at the institution.

Deinstitutionalization

A number of statements were made by DHS officials concerning progress made by Oklahoma in removing youngsters from institutional confinement. Dr. Baumberger* in particular implied that, under the blueprint of "Youth in Trouble-A Shared Concern", a balanced continuum of community and institutional programs were developed. It is true that institutions must exist for violent, dangerous and seriously mentally ill children. The notion, however, that there must be an "institutional back-up" to community programs is inherently flawed, particularly for deprived and INS children. Such a notion literally invites the most well intentioned social workers to use institutional confinement as a threat and to "give up" on a youngster prematurely. The mere existence of the institutional beds is an assurance that they will be filled.

Despite Dr. Baumberger's laudatory comments about community-based care for children in Oklahoma, he failed to tell you that between 1970 and 1978, the total number of group home beds for children in the state (approximately 24) increased by a net total of zero! As a result of the federal lawsuit, however, group home beds have increased to about 70, but this is wholly inadequate for the needs of Oklahoma. How can it be asserted that children are placed in institutions only after all community-based resources have been exhausted when many such resources don't even exist?

* Dr. Theodore Baumberger is the Supervisor of the DHS Division of Institutions and Community Services for Children.

Dr. Baumberger also failed to mention the most recent study of Oklahoma's institutional system for children, entitled "Public Care and Control of Youth" (the Stephens Report). This study was conducted by DHS consultants at the taxpayer's expense between 1978 and 1980. While it may be true that on any given day the institutional population comprises 10% of those children in DHS custody, this is more a function of available bed space than careful placement planning. On the other hand, the Stephens Report found that of the delinquent and INS youth committed to DHS, 90% were confined in institutions sometime during their custody.

The Stephens Report also noted that "the department operated constellation of childcare institutions are collectively old, mal-placed, and insufficiently staffed" and recommended that DHS cease all childcare operations at Helena, Whitaker and Boley. These recent recommendations for the closure of Helena and Boley were merely echos of recommendations made by the National Council on Crime and Delinquency 15 years ago.

With regard to deprived children, Mr. Rader testified that of 4386 deprived children in DHS custody, only 160 are confined to institutions. He doesn't tell you that the greatest majority of these 4386 deprived children are infants under the age of seven nor does he tell you the total number of deprived children institutionalized during the course of a full year (the number 160 represents those deprived children incarcerated on a specific date).

These facts aside, however, there is simply no justification for the secure confinement of abused, neglected and runaway children. Since 1978, juvenile judges in Oklahoma have been prohibited from changing the adjudication asked for in the petition. This "truth in adjudication" law severely undercuts DHS contentions that many INS youngsters are really delinquents in disguise.

More importantly, however, forty-four states in this country participate in the Juvenile Justice and Delinquency Prevention Act which forbids the placement of non-offenders in secure facilities; Oklahoma is not among this group of states. The Act expresses national public policy for the betterment of the lives of abused, neglected and runaway youth. If forty-four states can subscribe to this important national policy, why can't Oklahoma? The answer: there is no reason. Every DHS expert consulted on this issue admitted under oath that deprived and status offender youth are better cared for in small, community-based settings, and that Oklahoma has the resources and expertise to achieve that result.

Mr. Rader also testified that institutional commitments have dropped two thirds over the last five years. His own annual reports contradict this statement. A careful analysis of those reports indicate that institutional admissions have remained relatively constant over the last five years, and in fact increased from 1980 to 1981.

It is well to note in this regard that DHS substantially changed its statistical methods in February, 1978. Prior to that date, all children assigned to institutions were recorded. This would include children on leave and parolees. Understandably, these figures were high, giving the impression that many children were receiving institutional services. After being sued in January, 1978, however, the statistical method changed so that only children actually in residence appeared on the statistical compilations. This, of course, gave the impression of substantial decreases in institutional populations. Ironically, this also created a situation that revealed more accurately the actual costs of keeping kids locked up.

I am at a loss to understand Mr. Rader's testimony that Helena was closed "pursuant to long-standing plans" when his lawyers argued well into 1981 that it should not be closed.

I would challenge DHS to produce a single shred of documentary evidence that supports Mr. Rader's conclusion. Along these lines, I wish to add a personal opinion of mine that is supported by several DHS personnel, including Chase Gordon. Virtually every positive change in Oklahoma's juvenile institution system over the last several years, including the closure of Helena, was brought about, or atleast accelerated, by the Terry D. lawsuit. Were it not for the filing and prosecution of that case by Legal Aid of Western Oklahoma and other civil liberties organizations, widespread abuse, solitary confinement and use of restraints would still be routine; the DHS penchant for incarceration would have proceeded unabated and few of the matters now under investigation would ever have come to light.

Advocate Defender Program

Department officials repeacedly touted their Advocate Defender Program as a highly effective first link in its child abuse reporting system. In some isolated cases, the program has been shown to be effective. On the whole, however, it has been singularly ineffective in the reporting, investigation and prevention of abuse. There are several reasons for this conclusion. The first is staff resistance to the programtic concept. This has been documented by DHS evaluators (see Exhibit A attached).

The second is the lack of training for the Advocate Defenders in investigation and counseling techniques and basic legal principles. By and large, advocate defenders are institutional YGS or social workers seeking either job variety or an increase in pay. I sat in on a number of detention hearings, where the Advocate Defenders are supposed to be advocates for the child. In virtually every instance, the Advocate Defenders were ill-prepared to represent the child and had no apparent understanding of administrative proceedings. I actually heard one Advocate Defender advise a child protesting his innocence to confess to the charge because the Disciplinary Committee would then give him a shorter sentence in solitary confinement.

Lastly, the children simply do not trust a DHS employee to handle their complaints fairly and effectively. This is not a groundless concern. Advocate Defenders have no authority other than to report. The prevasive failure of DHS administrators to respond to child abuse incidents and other policy violations conveys to the children the feeling that reporting complaints doesn't help--naturally, in order to avoid exposure and retaliation, many children have told me that they don't bother to complain to the Advocate Defender anymore.

L.E. Rader Diagnostic and Evaluation Center

Department officials, particularly Dr. Baumberger, took pride in their diagnostic facility at Sand Springs. There are, indeed, a number of positive features in this facility. For example, it is well located near Tulsa and enjoys a reasonably good professional staff.

On the other hand, it is not without serious problems as Dr. Baumberger would lead the Sub-committee to believe. Children at the diagnostic center are housed according to age. As a consequence, there is complete co-mingling among deprived, INS and delinquent children. Moreover, solitary confinement in so-called "time-out" rooms remains a common practice at this facility.

More significant, however, is Dr. Baumberger's assertion that the diagnostic facility is not really an institution since children stay there only for an average of six weeks for diagnostic purposes. This statement is not correct according to DHS placement statistics. Utilizing, as a random sample, all deprived children at the diagnostic facility during August, 1981, the following statistics can be computed:

- The average length of stay among the August, 1981 deprived child population was 20 weeks.
- Six deprived children in residence were eleven years old or younger, including one seven year old, one nine year old and two ten year olds. Among these youngsters, the average length of stay was 22 weeks.
- One deprived child had been in residence for 71 weeks, another for 46 weeks and yet another for 44 weeks.

Based on these kinds of statistics, the conclusion is inescapable that the diagnostic center is indeed an institution, and when a child is confined there, it must be considered an institutional placement.

Open Campuses and Non-Correctional Facilities

Central Oklahoma Juvenile Treatment Center (COJTC) was referred to by DHS officials as "non-correctional", thereby justifying the extensive co-mingling of delinquent and INS children at that facility (54 INS and 75 delinquent as of May 31, 1982). Apparently, the conclusion that COJTC is non-correctional is based upon recent legislation (initiated and supported by DHS) designating it as such.

It takes a great deal more than mere legislative pronouncement, however, to make COJTC non-correctional. The fact of the matter is that COJTC remains a secure, correctional facility. There is a fence surrounding the institution with a guard house; children are confined to their dorms during virtually every free moment of their time; there is little freedom of movement within the institution; and restriction and regimentation are the daily routine. Educational experts referred to the COJTC school as "prison-like".

In addition, COJTC remains the only institution for delinquent girls (except for a handful of girls deemed to be violent who are at the Sand Springs Intensive Treatment Center). This placement reality militates against the operation of COJTC as a "non-correctional treatment" facility.

Despite its characterization as an "open campus", there is very little difference between the operation of Whitaker and the state training schools for delinquents. All of the experts who have inspected Whitaker have reached the same conclusion. One of the experts referred to Whitaker as "the sickest institution of them all", primarily because the population was entirely non-offenders.

The level of restriction at Whitaker is extraordinarily oppressive. All children, regardless of their individual treatment needs, are forced to endure a behavior modification point system, where points are given or taken away based on the performances of work chores, behavior and attitude. Restrictions (the childrens' word for punishments) are freely given by staff and result in loss of points and other privileges. As a result, few children are able to fully enjoy the privileges that DHS officials claim to exist at Whitaker, such as off-campus passes. When too many restrictions are accumulated, children are sent to the segregated cottage known as limited privilege, where they can stay indefinitely. The level of restriction in limited privilege is even greater than in the general population.

As at COJTC, virtually all free time is spent confined in the dorms. Children must even have a specific amount of points to go out and sit on the dorm porch. Children, who in frustration, leave their dorms and run around the campus just to get outside, are chased down in vans and placed in segregated confinement. The chasing of AWOL's from the institution was described by DHS evaluators as a para-military operation which the staff seemed to relish greatly. While there is not a barbed wire fence around Whitaker, the facility is secure in every other sense of the word.

Michael E.

It was not my intent in preparing this statement to comment on the individual cases brought to the attention of the Subcommittee. The case of Michael E., however, has particular significance to me because he is my client in juvenile court and I know him quite well.

Michael was removed from his home when he was eight years old due to physical abuse by his step-father. In the following years, while in the custody of DHS, Michael experienced at least 9 foster placements. Several of these placements were terminated through no fault of the child. The others were apparently terminated due to conduct that, according to his records, can best be described as obnoxious. Mr. Miller's* statement that Michael has had a continuing history of violent and aggressive conduct is outrageous, false and a slander against this young man's character. From my review of Michael's DHS records, any incidents of aggresive behavior occurred only after he was incarcerated in DHS institutions.

In November, 1979 the parental rights of Michael's parents were terminated. Mike became what is known as a "permanent custody child". Once placed at Whitaker, absolutely no effort was made to find a community placement for him; this is typical for permanent custody children. Without intervention, he probably would have spent the rest of his childhood in DHS institutions. Legal Aid of Western Oklahoma, however, brought his case to juvenile court in January, 1982. The Oklahoma County Juvenile Court found the Department's handling of Michael to be inexcusable and grossly negligent, and ordered that Michael be placed in a foster home. A transcript of the court's findings is attached as Exhibit B. Within several weeks a foster home was found. Michael has been there ever since with no problems whatsoever. In my experience with deprived and status offender children in DHS custody, Michael is one of the fortunate few.

* George Miller is Mr. Rader's personal secretary and has been primarily responsible for DHS public relations and running interference for Rader in the state legislature.

I conclude this statement with these general observations of Oklahoma's juvenile institution system: it is not one of the best in the country, it is one of the worst; it does not provide individualized care and treatment to children, rather it is a very impersonal system that is harmful and debilitating to the youngsters; and it is a crooked system that operates in violation of state laws (e.g. education and fire safety), encourages widespread political patronage, and tolerates the continued employment of persons involved in a variety of criminal activities.

The foregoing statement is true to the best of my knowledge, information and belief.

Steven A. Novick
STEVEN A. NOVICK

EXHIBIT A

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

To: Ted Baumberger, Ph.D., Adm. Asst. Supvr., Planning, Policy & Contract Services
Date: March 21, 1979

From: Fred Hill, Program Supervisor
Dayle Denton, Ph.D., Evaluation Section, PPCS
Attention:

Subject: SUMMARY REPORT ON ADVOCATE DEFENDER PROGRAM
In Reply - Address to Attention: ____________

The following is a summation of the findings of the Evaluation of the Advocate Defender Program. This memorandum does not incorporate all the findings, rather the ones which have the most immediate programmatic implications.

1. Overall the Advocate Defender seems to be successful in providing juveniles in institutions with a voice regarding problems which they incur. Generally, most students know who the Advocate Defender is and the purpose of the program. (See page 5.)

2. While staff generally state that they understand the Advocate Defender Program it seems that the understanding is limited to the practice rather than the overall philosophy and intent of the program. (See page 4)

3. With the exception of Girls' Town every institution sees a need for changes in the Advocate Defender Program and Hearing board processes. (See pages 25 and 47.) The changes center around the two main areas of clarity of guidelines to reduce the "court room drama" and "getting kids off". (See page 41.)

4. Recidivism rates indicate that the use of detention does not serve as either an effective control or as a deterrent. Only a small percentage of staff feel that detention serves a purpose, (See page 78) yet its use rate is high excepting OCC South, OCC North, and Girls' Town. This difference in data may indicate that the effectiveness of detention correlates to minimum use. See Page 49 and recidivism tables, page 59.

5. Alternatives to detention are relatively limited (pg. 40) and are most generally those of negative reinforcement with few if any positive based alternatives in which to deal with those juveniles who exhibit disruptive behavior, pages 7.

6. Along with the above, the evaluation findings also indicates a lack of anything meaningful happening to juveniles after being released from detention. Because of this, it would seem to be difficult for juveniles to relate detention placement to part of their overall program. Pg. 9.

7. The Division of Institutional Services has an inadequate data base with which to effectively monitor or evaluate program in regard to detention. Pgs. 34, 51 through 58.

8. The evaluation points out a need for training in several areas:

   Knowledge of AD Program philosophy and intent.
   Alternatives to detention and their use. Pgs. 10, 25, 40.
   Treatment planning as a result of detention. Pgs. 9, 35.
   Development of reporting and monitoring systems for essential data within both DIS and the AD program. Pgs. 27, 34.

9. The Advocate Defenders have no uniform way of reporting important data to the Advocate General on a monthly basis. The information in regard to detention received from the Advocate General's office differed from the DIS data in almost every case (see Advocate Defenders' report). For this reason it is recommended that the Advocate General and Division of Institutional Services work together in developing a monitoring system which will allow for cross checking. Pgs. 34, 65.

FH:f

EXHIBIT B

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

In the Matter of)
MICHAEL [redacted],) NO. JF-75-1418
an Alleged Deprived Child.)

****

PARTIAL TRANSCRIPT OF HEARING HELD ON THE 28TH DAY OF JANUARY, 1982, BEFORE THE HONORABLE JUDGE DONALD C. MANNING, CONTAINING THE COURT'S CONCLUSIONS OF LAW AND FINDING OF FACTS IN THE ABOVE-STYLED CAUSE.

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APPEARANCES:

For the State: MIKE VISCOSI, Legal Intern
District Attorney's Office
608 County Courthouse
Oklahoma City, OK 73102

For the Child: BARBARA J. DEW and STEVEN A. NOVICK
228 Robert S. Kerr Avenue
980 Court Plaza
Oklahoma City, OK 73102

PROCEEDINGS

THE COURT: Let the record show that we have been in chambers, that we're now reconvened in court, all the parties are present in court.

The Court has heard all of the evidence in the matter and is now prepared to render a decision in this matter.

The Court has before it a young man who has been adjudicated a deprived child under the laws of the State of Oklahoma, in case number JP-75-1418. For the purposes of the record, the JP-75 indicates this was a 1975 case. We're now in 1982.

The evidence has been that this young man was committed to Whitaker State School on August the 19th of 1980. After hearing all of the evidence in this matter the Court can reach only one conclusion; that is that Michael [redacted] is a child who has been lost in the judicial system of this State. There has been no review of his placement since he was placed at Whitaker State School in August of 1980. That in itself is a gross miscarriage of justice.

This young man is not charged with any crime. He is only a delinquent(sic) child. I cannot help but find that the Court and the Department of Human Services have been grossly and woefully negligent in placing this child. There is no reason why this young man could not have been placed in some facility other than Whitaker in the period of time that has transpired.

Now this Court has heard testimony this afternoon, without leaving the outter office of this Court I had been made aware there is a very potential placement for this young man with a family of a member of the District Attorney's staff, that all that is really needed is some additional information on this young man.

Now if this Court can without leaving the premises, and in the same afternoon that it hears testimony in this matter; if this Court can find a potential placement for this young man, I find no reason whatsoever that the Department of Human Services had they been diligent in their efforts could not have placed this young man between August the 19th, 1980, and this date. It is a sad commentary on the system when this sort of thing is allowed to happen. I'm very much aware of the number of children that go through the system, the problems that the Department of

Human Services has in their placement. I still cannot excuse the fact that nothing has been done on behalf of this young man.

It will be the order of this Court, that this young man be placed temporarily in Shelter, or he will remain at such time as placement can be determined. I'm going to set a hearing for placement two weeks hence, at that point in time the Department of Human Services may if they so desire, come up with alternate placement for this young man. The placement that I previously mentioned will be explored by the Department of Human Services to determine if it is suitable and adequate for this young man. This Court will cooperate with the Department of Human Services in providing the names of the individuals that I'm referring to so that an investigation can be conducted.

I want this placement completed in the next two weeks if at all possible; if it is not possible, then I will of necessity have to continue the placement hearing. I see no real reason why that should be necessary.

Further, I believe that a psychological evaluation was conducted on this young man, probably at DNE prior to August the 19th, 1980. It will be the order of this Court that the Department of Human Services provide to this Court for the purposes of assisting in the placement of this young man the latest psychological evaluation as well as any other information relating to behavioral problems that this young man may have. They are ordered to submitt that information to this Court as expeditiously as possible, which means as far as I'm concerned tomorrow that they can begin providing this information to the Court. I do not want any unnecessary delays, I want this matter resolved I want it resolved immediately.

Further for whatever purpose it may serve, this is somewhat of a unique situation and this Court's ruling may be adversed to what the Department of Human Services feels and believes and I want the record to reflect that as far as this Court is concerned, the Department of Human Services may with this Court's blessing take this ruling today to the Supreme Court on a writ if they so desire. I have no doubts in my mind after hearing the testimony that the writ will not lie, because the Department has in fact been negligent. The record will reflect that this Court encourages them to do so if they feel it is necessary to take this action.

In the event that no psychological has been conducted since 1980, then a psychological evaluation of this young man will be conducted by the Department of Human Services as expeditiously as possible keeping in mind the guidelines set forth by this Court for a placement hearing two weeks hence. Two weeks hence by my calender will be the 11th day of February, 1982.

Now, young man I'm going to place you in custody of the Shelter at this point in time. The Shelter is not desirable , it certainly is not any worst in my opinion then the situation that you've been in at Whitaker State School. While you are in Shelter it will be as brief a period of time as is necessary. It behooves you however while you are in Shelter to take full advantage of what your counsel has done for you and what this Court has done for you. The Shelter is not a locked facility, you can leave if you so desire to leave. If you do so however, then you are only harming yourself and deterring this Court in the assistance that this Court is trying to render for you. I hope that you will stay at Shelter until such time as we can find a suitable placement for you, which will be only a very short period of time. You have endured a long period of time at Whitaker State School and if you can endure that for that long a period of time I believe that you should be able to endure a couple of weeks at Shelter.

Now is there anything else before this Court? I would ask that counsel for this young man prepare a journal entry to reflect the rulings of this Court and to do so as expeditiously as possible.

I think there's one other matter that needs to be approached, and I will approach it at this point in time.

Two members of the Department of Human Services have been here throughout this hearing this afternoon. Both have offered input into this situation , one has been called upon to testify in this matter. I believe that the testimony and the input that has been offered or which has been illicited from these two individuals has been fair, truthful and honest. I believe it has been somewhat reluctant, not reluctant from the standpoint of doing justice but from the standpoint of giving testimony that might in fact be adversed to their employer, the Department of Human Services. They have done so upon order of this Court and I want the record to reflect that even though the Department of Human Services might consider their testimony and their statements as adversed to the Department that no retaliation or no discrimination or recrimination will be had against these two individuals for any testimony that they may have offered into Court today. And should this Court learn that such has been the case, this Court will do everything within its power to to afford those individuals the full protection of this Court. I want there to be no mistake about this. All of us can make mistakes, and we have all made mistakes. This Court has made a mistake, it made a mistake in that it has not reviewed this placement of this young man for a very prolonged period of time.

And when I say this Court, I'm referring to the District Court of Oklahoma County and not necessarily to myself; I have never heard this case before. But we have failed, the Department has failed and now it's time to admit our failure and to correct the situation and that is exactly what this Court is doing. And this Court is not getting into any of the Department of Human Services business, as far as discipline at Whitaker State School or anything else. I'm only concerned with the welfare and the best interest of the children that appear before this Court and the children who are wards of this Court. And I would be shirking my responsibility if I did in fact not act on behalf of a ward of this Court. And above everything else this young man, Michael Estell is a ward of my Court. And as a ward of my Court he is only and only been placed in the custody of the Department of Human Services.

No one has any more responsibility to this young man than This Court has to him. This Court will accept its responsibility and will act in the best interest of this young man.

If there's nothing further, this Court is adjourned.

CERTIFICATE

I, Cynthia L. Humphrey, an Official Court Reporter and Certified Shorthand Reporter for Oklahoma County, State of Oklahoma, do hereby certify that the Requested Partial Transcript of Proceedings was by me taken in shorthand and thereafter tanscribed and that the same was taken on the 28th day of January, 1982 in the City of Oklahoma, Conty of Oklahoma, State of Oklahoma, and that I am not attorney for or relative of either said parties, or otherwise interested in the event of said action.

In Witness Whereof, I have hereunto set my hand and official seal, this 8th day of June, 1982.

Cynthia L. Humphrey

Cynthia L. Humphrey,
Certified Shorthand Reporter,
Official Court Reporter in and
for the State of Oklahoma.

PART III.—POST-HEARING SUBMISSIONS BY THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES

June 23, 1982

MEMORANDUM TO THE UNITED STATES SENATE SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Oklahoma State Personnel Board

It has been recommended that the Department of Human Services, as a matter of policy, appeal decisions by the State Personnel Board reinstating employees terminated from juvenile institutions based upon allegations of abuse. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 140-141.

The State Personnel Board is an administrative body created by statute, 74 O.S. § 801 et seq., with responsibility for reviewing personnel actions appealed to the Board by the affected employee. The Board's hearing examiner hears testimony, receives documentary evidence, and determines the facts in each case. Based upon the record, the examiner issues his findings and decision. Proceedings before the Board are adjudicatory in nature, are conducted under the rules of evidence, and are subject to review on appeal to the Oklahoma District Court. On appeal, decisions of the examiner are reviewed on the administrative record and may be reversed or set aside only on a finding of abuse of discretion or error of law. See 75 O.S. § 322. Thus, it should be apparent that a decision to appeal action by the Board must be based on a legal analysis of the individual matter, the proceedings, and the applicable law.

In every instance, the Oklahoma Department of Human Services has sought and relied upon legal opinion regarding the merits of an appeal. In every case where no appeal was entered, the Department had been advised by counsel that an appeal would have no legal merit under the statute.

To pursue meritless appeals of adjudications and decisions by an administrative board would not, in the opinion of the Department, be a responsible use of state resources. The Department has, however, arranged for an attorney to be assigned to work with Department investigators researching and documenting grounds for institutional employee discipline. The Department is also studying and considering other ways to improve its chances of being sustained by the Board.[2]

The Department is confident that its legal representation before the Board is most able and competent. Staff attorney W. L. Keating[3] has represented the Department in all personnel matters including proceedings before the Board since November 1981. Additionally, Mr. Keating is available for consultation with institutional personnel, the Advocate Defender, the Division of Child Welfare, and the Office of the Inspector General in connection with any matters involving the conduct of institutional employees.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

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[2] For the Department as a whole, approximately 88% of the actions appealed to the Board are sustained. For matters involving allegations of abuse in the juvenile institutions, however, the percentage of Department actions sustained is approximately 53%. The difficulty in the latter category is largely due to the unavailability or unwillingness of juvenile witnesses to testify, and the lack of credibility of juvenile testimony when contradicted by the testimony of the employee.

[3] Mr. Keating was with the Oklahoma State Personnel Board from 1959 to 1970, and served as director of the Iowa Merit Commission for 11 years before assuming his current position.

Subcommittee Note:

No Department offical interviewed by the Subcommittee could recall a single instance where a Board decision was appealed.

CONFIDENTIAL

June 24, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Referrals to Local District Attorneys

It was alleged before the Subcommittee on May 26 that although 22 referrals had been made to local district attorneys in 1982, only two such referrals had been made prior to 1982. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary, 172-173. The implication was that the Department had failed to advise local prosecutors of abuse allegations that may have led to criminal prosecution. We have made further inquiries in an effort to provide additional information on referral to local prosecutors prior to 1982.

Although procedures for DA referrals[1] were modified effective March 1, 1982, to provide for specific documentation and responsibility for referrals, these referrals have been routinely made in prior years by the institutional superintendents when circumstances indicated possible grounds for prosecution. For example, at least nine matters at the Helena State School for Boys[2] were referred to local district attorneys in Woods and Alfalfa Counties during the period May 1979 to July 1980:

(1) [redacted] allegedly assisted a student in going AWOL and was charged with con-

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[1] Currently, the Department is forwarding all allegations of abuse, even those found to be unsubstantiated, to the local district attorneys. This procedure is burdensome for both the Department and the prosecutors, and may be reconsidered in the future based upon consultation with and recommendations from the local prosecutors.

[2] This information is based upon research and recollections of Thomas Norwood, superintendent at Helena from May 1979 to July 1980.

tributing to the delinquency of a minor. He received a one-year suspended sentence.

(2) [redacted] was alleged to have contributed to the delinquency of a minor. No charges were filed, but [redacted] subsequently resigned from his position at the institution.

(3) [redacted] was alleged to have provided drugs to students. No action was taken by the district attorney.

(4) Allegations of drug-dealing by [redacted] were referred to the local prosecutor, but no charges were filed.

(5) [redacted] was alleged to have aided a student in going AWOL, but no action was taken by the district attorney.

(6) [redacted] was alleged to have assisted a student in going AWOL and to have been engaged in drug-dealing. The matter was brought to the attention of the local district attorney. [redacted] was placed under surveillance and eventually convicted on drug-dealing charges unrelated to the institution.

(7) Allegations against [redacted] for contributing to the delinquency of a minor were brought to the attention of the local prosecutor. The allegations were investigated, and no charges were filed.

(8) Allegations of drug dealing by [redacted] were referred to the local district attorney. The matter was investigated, but no charges were filed.

(9) It was alleged that [redacted] had contributed to the delinquency of a minor, but no action was taken by the local district attorney after investigation.

Gary Hunt recalls four referrals to local prosecutors during his tenure (November 1977 - January 1982) as superintendent at Whitaker State Children's Home. Two were very recent matters involving [redacted] and [redacted]. It was alleged in 1978 that [redacted] had committed assault and molested a male resident. The matter was referred to the local district attorney and charges were filed. [redacted] was found guilty and sentenced to a term of probation. In 1981, charges of molesting a female resident at Whitaker were alleged against [redacted]. No charges were filed after referral to the local prosecutor.

R. L. Doyle, superintendent at the Boley State School for Boys (December 1975 - October 1979), recalls a good working relationship with Assistant District Attorney Frank Rahhal in Okfuskee County. On numerous occasions, he visited with Rahhal to review problems or matters that had arisen at the institution. Although Doyle does not recall specific matters discussed with Rahhal, and there were no prosecutions during his term at Boley, he believes that abuse allegations, if they occurred, were a part of his conversations with the prosecutor.

Wilbur Williams, former superintendent at the Oklahoma Children's Center, and his predecessor, Jack Campbell, developed and maintained close working relationships with the local district attorney's office and other law enforcement agencies in the area. In particular, District Attorney Mike Turpin has been closely advised regarding circumstances at OCC and in the surrounding community of Taft, Oklahoma. Campbell recalls two matters that were referred to the district attorney for possible prosecution during his tenure at OCC, but does not recall any specifics.

Herschell Daney, superintendent at the Rader Diagnostic and Evaluation Center, reports a good working relationship with the Tulsa County District Attorney Joe Smith and the Tulsa County sheriff's office. Buddy Warren, the juvenile officer in the Tulsa County sheriff's office, has worked very closely with the Rader Center for a number of years. David Shafer, the first superintendent at the Rader Center, recalls Deputy Warren investigating complaints as early as 1975.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

CONFIDENTIAL

June 24, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Investigation of M[redacted]/John [redacted] Incident */

Between 10:00 and 11:00 on the morning of April 18, 1982, John [redacted], a resident of the Boley State School for Boys, was involved in a fight with other residents. He was seen by the institutional nurse between 11 A.M. and noon, and was treated for superficial scratches on his right third knuckle. No other injuries were observed or reported at that time.

At approximately 1:00 P.M. on the same day, JOHN [redacted] asked to be voluntarily admitted to the Crisis Intervention Center. During the CIC admission interview, Haggerty made no reference to a fight with other residents. Shortly after admission to the CIC, however, JOHN [redacted] talked with the institutional chaplain Boyd Weldon and did discuss the morning incident. He did not at that time identify any of the other residents involved or provide any information on the reason for the altercation. He also did not complain of any injuries.

At approximately 1:15 P.M., Mr. M [redacted], the YGS on duty at the CIC cottage, contacted shift chief John Emery to report that JOHN [redacted] was being uncooperative. (Subsequent investigation has determined that JOHN [redacted] was verbally abusing the YGS including the use of racial and character slurs.) About fifteen minutes later MR. M [redacted] again contacted Emery and asked for additional security personnel to assist

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*/ Pursuant to request for additional information. See Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 40.

in controlling JOHN [redacted]. Security officers MR B [redacted] and MR J [redacted] arrived at CIC shortly thereafter and sometime before 2 P.M. JOHN [redacted] was struck by MR. M [redacted].

JOHN [redacted] was seen by the nurse on duty at approximately 3 P.M. An investigation of the incident was commenced at approximately 4 P.M. by James Cole of the Division of Child Welfare. On April 18 and 19, the matter was investigated by Cole and Boley Student Defender Ralph McReynolds. The investigation included interviews of JOHN [redacted], MR. M [redacted], MR B , MR J [redacted], Emery, Weldon, Dr. Herbert Yates of the Creek Nation Community Hospital; Margaret Kerr, Boley nurse; Dr. Hobart Sanders, Boley physician; Randy [redacted], juvenile; and Charles [redacted], juvenile. (The two juveniles were also in CIC at the time of the incident involving [redacted] and [redacted].) MR. M [redacted] was suspended pending the investigation on April 19.

Bill Brown, Chief of Institutional Security for the Department, conducted additional interviews of MR. B [redacted] [redacted], MR J [redacted] and Randy [redacted]. Brown also interviewed James Campbell, the shift chief who came on duty at 2:30 P.M. on April 18.

The matter was referred to the local district attorney on April 20 by DCW personnel. Additional investigative information on the conduct of MR B [redacted] and Mr J [redacted] [redacted] was forwarded to the local district attorney on April 26. The termination of MR M [redacted] was effective on April 28; the terminations of MR B [redacted] and MR J [redacted] were effective on May 1, 1982. MR M [redacted] was terminated "due to allegations by a male student at the Boley State School for Boys that you struck him in the face and ear with your fist and choked him." MR B [redacted] and MR J [redacted][1] were terminated for failure to report an incident of abuse.

Although several efforts were made by institutional personnel to get JOHN [redacted] to cooperate by identifying the other residents involved in the morning fight, he refused to identify any alleged assailants or witnesses. At no time during the investigation of either fights among juveniles or the [redacted] incident was any information given to Department personnel suggesting that a Boley employee had sought to retaliate against JOHN [redacted] or Stacy [redacted][2] by offering some incentive to other juveniles.

Based upon statements by David [redacted] at the Senate hearing on May 26, 1982, the Department has initiated an investigation focusing specifically on the question of whether any employee sought to retaliate against John [redacted] or Stacy [redacted] by offering some reward or incentive to other residents. This investigation is now in progress and a full report will be provided to the Subcommittee, and other authorities as appropriate, when completed.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

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[1] The termination of MR J [redacted] was reduced to a sixty day suspension without pay on June 10, 1982, by the State Personnel Board.

[2] Stacy [redacted], another juvenile at Boley, was involved in a fight with another resident on April 17, 1982. Clinic records show that he was treated for a cut lip on the afternoon of April 17. (A report prepared by Boley Superintendent Robert Buckner and an injury report prepared by clinic personnel indicate that STACY [redacted] also cut his lip in a fight with John [redacted] on April 9.) STACY [redacted] was treated again for a cut lip on the evening of April 18, and has alleged that he was attacked by other juveniles because he reportedly "snitched" on some of the Boley houseparents when interviewed by Subcommittee representatives. Department personnel attempted to investigate the fighting incident, but Stacy [redacted] refused to cooperate with the investigation and would not identify his alleged assailants or any witnesses. Boley Assistant Superintendent Jim Erdman and Student Defender McReynolds both asked STACY [redacted] for this information. Because of his refusal to cooperate, the investigation was unproductive.

June 24, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Employee Background Checks */

The Department does not believe that employees with arrest records, or even those with a record of criminal conviction, are categorically unfit for employment in the juvenile programs of the Department. The Department does believe, however, that certain information of this nature is useful. Accordingly, the Department frequently conducts research to identify arrest or conviction records.

A policy against the employment of persons with criminal records would obviously be unreasonable if it did not allow for consideration of the individual and the specific circumstances of each case. For example, a State or Department policy precluding the employment of convicted felons for work in the juvenile programs of the Department would deprive the Department of the services of Dr. Richard Rettig,[1/] the coordinator for institutional training programs who testified at the hearings on May 27. Dr. Rettig has made significant contributions to the Department and his personal experience with juvenile and adult correctional systems contributes substantially to his effectiveness in dealing with both juveniles and institutional employees.

It is not economically feasible nor even reasonable to conduct background checks on every Department

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*/ Pursuant to request for additional information. See Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 201.

1/ Institutionalized as a juvenile for grand theft--auto; convicted on arson, armed robbery and burglary charges. Released on parole for the last time in 1966. See Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 185.

employee, and such a policy would be an extraordinary procedure for any state government agency. Nevertheless, the Department did in 1981 and 1982 check for arrest and conviction records on some 5,000 of its employees. This research was in part prompted by the investigation of problems in the Taft community where the Oklahoma Children's Center is located.[2/] Of the approximately 1,500 Department employees working with the juvenile institutions in 1981, ten have been identified as having arrest and/or conviction records.

The National Crime Information Center of the Federal Bureau of Investigation makes available to law enforcement agencies a computer file of information on arrests and convictions. Unfortunately, this information is often incomplete because all law enforcement agencies in the United States do not forward information on local arrests and convictions to the FBI. Despite these shortcomings, the Department's use of this resource in 1981 and 1982 identified four institutional employees with arrest and/or conviction records. Three of these employees continue to work in the Department's institutional programs and have satisfactory work records. The fourth[3/] was terminated on February 26, 1982, for "inappropriate behavior toward female residents."

The Department also conducts background checks through local law enforcement agencies and through personal contacts with agencies and law enforcement personnel in other states. In 1981 and 1982, inquiry through these

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[2/] Concerns regarding the Taft community and past problems at the Oklahoma Children's Center led to adoption of a new employee screening procedure for that institution which involves a fingerprint check through local and federal law enforcement agencies.

[3/] One charge for assault in Dallas in 1979; no conviction.

sources identified law enforcement records on five institutional employees.

Two of these five were terminated from positions at the Oklahoma Children's Center in February 1982 based upon suspected criminal activity. Because the criminal conduct could not be proved, both were reinstated by the State Personnel Board. One currently works in the recreation program at the Boley State School for Boys. The other is employed in the security office at the Rader Diagnostic & Evaluation Center. Department personnel report that both individuals are performing satisfactorily in their current positions.

During the 1981 investigation at the Oklahoma Children's Center it was discovered that one employee had a serious criminal record in California.[4/] He was immediately confronted with his record and asked to resign, which he did effective November 13, 1981.

The Department learned early in 1982 that an employee at the Rader Center was the subject of an arrest warrant for allegedly writing bad checks. This information was received through local law enforcement officials, and was among the reasons for his termination in February of this year. As reported at the May 27 Subcommittee hearing, this individual has recently been reinstated by the State Personnel Board. He is now employed as a social worker in the Tulsa County welfare office.

[4/] Convictions for vehicle manslaughter, drug possession, forgery, kidnapping, and rape by force.

The fifth individual with a law enforcement record identified through local law enforcement agency contacts is currently employed as a painter in the maintenance division at the Boley State School for Boys and has an acceptable work record.

From time to time, the Department has received information suggesting that some institutional employee has an arrest or conviction record. Except for those noted above, inquiry or investigation by the Department has failed to substantiate or verify this information. Because the Department must necessarily be cautious not to infringe upon the rights of its employees, background checks are sensitive matters and information relating to arrest and conviction records is treated as confidential employee information.[5/] Nevertheless, it has been and will continue to be the policy of the Department to thoroughly investigate any evidence that an employee may have a criminal arrest or conviction record which may affect his performance as an employee.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

[5/] If the Subcommittee believes that identification of individuals is necessary and essential, the Department will provide this information on a confidential basis.

June 24, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Delores Briscoe and Laurie Glazebrook

During hearings on May 26 before the United States Senate Subcommittee on Juvenile Justice, Delores Briscoe alleged that while she was a resident at the Rader Diagnostic and Evaluation Center a security guard was "coming by every night" and exposing himself at the window of her room. She admitted that she never reported this to institutional officials or took any other steps to prevent recurrence of the alleged misconduct. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 26, 1982), 145-146.

Ms. Briscoe's testimony was seen on television by Laurie Glazebrook of Enid, Oklahoma, another former resident at the Rader Diagnostic and Evaluation Center. Ms. Glazebrook contacted the television station broadcasting the proceedings in Oklahoma to report that she and Ms. Briscoe had been roommates and that Ms. Briscoe's statements were not truthful. She also contacted Department officials in Oklahoma, and her telephone call was returned from Washington, D.C. by Herschell Daney, superintendent of the Rader Diagnostic and Evaluation Center.

According to Ms. Glazebrook, the testimony regarding the guard at the Rader Center who repeatedly exposed himself outside a window and about another guard who repeatedly looked in with a flashlight is not true. See Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 80-82. When called by counsel to confirm the above information, Ms. Glazebrook also stated that Ms. Briscoe's testimony about an incident involving a deaf student was false.

A review of Department records shows that Delores Briscoe was in residence at the Rader Center from March 2, 1981, to April 10, 1981. The records also establish that Laurie Glazebrook was assigned to the same cottage with Delores Briscoe from March 24, 1981, through April 16, 1981. The rooms in this cottage accommodate three residents and have one window.

Laurie Glazebrook has indicated that she is willing to talk with Subcommittee representatives, or anyone else interested in her comments on the Briscoe testimony or her impressions of the Rader Center. Ms. Glazebrook was quite complimentary of the program at the Rader Center, stated that she had witnessed no abuse, and felt that she had benefited from her experience at the center. Ms. Glazebrook's telephone number in Oklahoma is 405-234-6401.

At the conclusion of Ms. Briscoe's testimony on May 27, William Treanor alleged that Wilbur Williams, then superintendent of the Oklahoma Children's Center, had stated to him that Ms. Briscoe "was a very truthful person and that I could believe anything she had to say." Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 239. According to Mr. Williams, Mr. Treanor's statement is not correct. Mr. Williams recalls telling Mr. Treanor in February that he could not substantiate the credibility of Ms. Briscoe because his contact with her had been very limited and he had no basis for evaluating her credibility.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

Subcommittee Note:

Ms. Glazebrook telephoned the Subcommittee on May 26, 1982 and asked to speak to Subcommittee counsel, Mary Louise Westmoreland. Ms. Glazebrook told Ms. Westmoreland that she did not believe Ms. Briscoe's testimony that a security guard exposed himself at the window of her dormitory. When asked, Ms. Glazebrook declined to suggest any other area where she disagreed with Ms. Briscoe's testimony.

The Subcommittee requested that Ms. Glazebrook provide it with a written statement detailing her problems with Ms. Briscoe's testimony. No statement has been received.

CONFIDENTIAL

June 24, 1982

MEMORANDUM TO THE UNITED STATE SENATE SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Response Time to Allegations of Abuse */

Whenever an allegation of abuse is received, Department officials immediately initiate an investigation. Action against the employee implicated by the allegation follows as soon as sufficient evidence is produced by the investigation to support disciplinary action and when reasonable due process considerations have been satisfied.

The April 18, 1982, incident involving juvenile John H[redacted] and YGS John M[redacted] illustrates this process. The investigation was initiated by the campus Advocate Defender immediately upon receipt of the allegation, and the disciplinary action followed as soon as the facts and circumstances were established. Disciplinary action was effected 10 days after the report of the incident because the evidence of misconduct (eyewitness testimony, the nature and seriousness of the injury, etc.) was overwhelming.

The attached chart shows the response time for investigation and disciplinary action in the substantiated instances of misconduct occurring from June 1, 1978, to December 31, 1981.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

1/ Pursuant to a request for additional information. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 43.

CONT. M.

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Boley	[redacted]	[redacted] YGS	06-26-78	06-27-78	06-27-78	-Suspended 6/27/78-10/14/78 -Terminated 8/14/78 -Reinstated by Merit Board after 60-day suspension without pay 10/14/78 -Assigned to Institutional Maintenance 5/16/79
Boley	[redacted]	[redacted] YGS	10-26-78	10-27-78	10-27-78	-Suspended 10/27/78 -Terminated 1/15/79
Boley	[redacted]	[redacted] Teacher	12-05-78	12-05-78		-Counseled 12/15/78
Boley	[redacted]	[redacted] YGS	02-16-79	02-16-79	02-21-79	-Suspended 2/16/79-3/12/79 -Verbal/written reprimand -Reassigned to different cottage 3/12/79 -Increased supervision 3/12/79 -Resigned 4/14/79
Boley	[redacted]	[redacted] YGS	02-16-79	02-20-79	02-20-79	-Suspended 2/16/79-3/12/79 -Verbal/written reprimand -Reassigned to different cottage 3/12/79 -Increased supervision 3/12/79 -Resigned 4/14/79

These are the same individual

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Boley	[redacted]	[redacted] YGS	01-31-79	01-31-79	Final Report-- 02-26-79	-Verbal reprimand 1/31/79 -Active employment BSSB - Security Office -Last evaluation 7/23/80 Good
Boley	[redacted]	[redacted] YGS	02-03-79	02-03-79	02-04-79	-Verbal reprimand 2-3/79, 2/5/79 -Active employment YGS II BSSB -Last evaluation 2/82 Good, recommended for promotion to shift chief
Boley	[redacted]	[redacted] YGS	03-25-79	03-25-79	03-25-79	-Suspended 3/25/79 -Referred to DCW for child abuse investigation 4/20/79 -Terminated 7/7/79
Boley	[redacted]	[redacted] YGS	06-25-79	06-26-79	06-26-79	-Suspended 6/27/79 -Transferred to Institutional Maintenance (roofing crew) 8/29/79
Boley	[redacted]	[redacted] Teacher	09-18-79	09-18-79	09-18-79	-Resolved by Boley Public School Administration 9/19/79

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Boley	[redacted]	[redacted]eacher's Aide	08-15-79	08-15-79	08-15-79	-Resolved by Boley Public School Administration 8/15/79 -Terminated prior to 10/1/79
Boley	[redacted]	[redacted] [2] Teacher	09-18-79	09-18-79	09-18-79	-Resolved by Boley School Office 9/19/79
Boley	[redacted]	[redacted] Teacher	09-05-79	09-05-79	09-05-79	-Resolved by Boley School Officials 9/5/79
Boley	[redacted]	[redacted] YGS	01-09-80	01-10-80	01-10-80	-Verbal reprimand, 5 days intensive supervision -Active Employee BSSB YGS I (Custodial Service)
Boley	[redacted]	[redacted] [2] Teacher	02-18-80	02-19-80		-Counselled 2/19/80
Boley	[redacted]	[redacted] [3] Social Worker	03-07-80	03-07-80	03-08-80	-Terminated 4/25/80 -Appealed 4/25/80 -Reinstated by Merit Board 6/25/80
Boley	[redacted]	[redacted] [3] Social Worker	03-17-80	03-17-80	03-19-80	-Terminated 4/25/80 -Appealed 4/25/80 -Reinstated by Merit Board 6/25/80 -60-day suspension WOP 4/26/80-6/24/80
Boley	[redacted]	[redacted] [3] Social Worker	04-20-81	04-20-81	04-20-81	-Verbal reprimand -Suspended 5/7/81 -[illegible] -[illegible]

[2] These are the same indindual

[3] These are the same indindual

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Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Boley	[redacted]	[redacted] Food Serv.	07-24-81	07-24-81	07-24-81	-Verbal reprimand and counselling 7/24/81 -Written reprimand 7/27/81 -Personnel reprimand 9/9/81 -Active employment BSSB -Food service supervision -Last evaluation 1/27/82 Excellent
Boley	[redacted]	[redacted] YGS	11-22-81	11-23-81	11-23-81	-Employee abandoned position 12/6/81 -Terminated for abandonment of position 12/18/81
Helena	[redacted]	[redacted] Dairy	11-16-78	11-17-78	11-17-78	-Counselled by supt. 12/19/78 -Written reprimand 2/13/79 -Terminated 5/4/79 -Appealed to Merit Board-stipulated resignation -Resigned 5/4/79
Helena	[redacted]	[redacted] YGS	12-18-78	12-18-78	12-18-78	-Written reprimand 1/15/79 -Resigned 8/17/79

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Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Helena	[redacted]	[redacted] YGS	01-06-79	01-06-79	01-06-79	-Terminated 3/1/79
Helena	[redacted]	[redacted] YGS	01-16-79	01-19-79	01-19-79	-Verbal reprimand -Transferred to Highway Department 6/7/80 -Traffic Service Worker I
Helena	[redacted]	[redacted] YGS	03-19-79	03-20-79	03-29-79	-Written reprimand recommended 5/8/79 -Resigned 2/21/80
Helena	[redacted]	[redacted][4] YGS	03-26-79	03-26-79	03-26-79	-Verbal/written reprimand recommended 5/8/79 -Abandonment of position 2/14/80 -Terminated 3/15/80
Helena	[redacted]	[redacted] Cook	08-22-79	08-22-79	08-22-79	-Counseled -Retired 7/1/81
Helena	[redacted]	[redacted] YGS	12-01-79	12-03-79	12-05-79	-Terminated 12/6/79
Helena	[redacted]	[redacted] Security	05-14-80	05-19-80	05-19-80	-Verbal reprimand -Recommended for termination 5/29/80 -Resigned 6/15/80
Helena	[redacted]	[redacted][4] YGS	02-03-80	02-04-80	02-04-80	-Abandoned position 2/14/80 -Terminated 3/15/80

[4] These are the same individual

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Helena	[redacted]	[redacted] YGS	02-04-79	02-04-79	02-06-79	-Recommended that Emergency appointment be allowed to expire 2/8/79 -Emergency appointment allowed to expire 2/27/79
Helena	[redacted]	[redacted] C. Coord.	04-09-80	04-09-80	04-10-80	-Verbal reprimard 4/16/80 -Active Employment: Institutional Program Supervisor I, Helena -Latest Evaluation 7/16/81 Good
Helena	[redacted]	[redacted] [5] YGS		04-30-80		-Verbal reprimand -Reassigned to Security -Reassigned to maintenance 3/24/81 -Reassigned as Farmer 7/1/81
Helena	[redacted]	[redacted] YGS		10-14-80		-Verbal reprimand -Written reprimand -Reassigned to another cottage -Resigned 2/15/81
Helena	[redacted]	[redacted] Security		10-30-80		-Counselled -Verbal reprimand -Written reprimand 12/19/80 -Transferred to Enid Group Home 5/16/80 (Custodial service)

5] These are the same individual

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Helena	[redacted]	[redacted] 5 C. Mgr.		11-26-80		-Reassigned to Security -Reassigned to maintenance 3/24/81 -Reassigned as farmer 7/1/81
Helena	[redacted]	[redacted] 5 Security	02-18-81	02-19-81	02-19-81	-Reassigned to maintenance 3/24/81 -Written reprimand 4/1/81 -Reassigned as farmer 7/1/81
D&E	[redacted]	[redacted] YGS	12-25-78	12-26-78	12-26-78	-Verbal counselling with supt. 12/26/78 -Written reprimand 12/26/78 -Resigned 7/3/80
D&E	[redacted]	[redacted] YGS	09-21-79	09-21-79	09-22-79	-Verbal reprimand -Written reprimand -Active employment: Institutional Program Supervisor I -Crisis Management Program LER D&E -Last evaluation 3/15/82 Excellent
D&E	[redacted]	[redacted] YGS	08-29-79	08-29-79	08-29-79	-Probationary period extended 3 months -Reassigned to Security -Active employment: Security Officer -Last evaluation 1/20/82 Good

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Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
D&E	[redacted]	[redacted] YGS	04-05-80	04-07-80	04-07-80	-Verbal reprimand 4/8/80 -Active employment: YGS II LER D&E -Last evaluation 2/19/82 Satisfactory
D&E	[redacted]	[redacted] Social Worker	11-03-80	11-03-80	11-04-80	-Verbal reprimand 11/4/80 -Transferred to Tulsa County 3/18/80
D&E	[redacted]	[redacted] YGS	04-23-81	04-23-81	04-23-81	-Employee resigned 4/23/81
D&E	[redacted]	[redacted] YGS 6	04-29-81	04-30-81	04-30-81	-Counselled -Active employment: YGS II LER D&E -Last evaluation 9/25/81 Satisfactory
D&E	[redacted]	[redacted] CLS 7	04-27-81	04-29-81	04-29-81	-Counselled 5/4/81 -Resigned for personal problems 3/8/82 -Re-employment recommended -Last evaluation YGS III 8/26/81 Satisfactory/ Good
D&E	[redacted]	[redacted] YGS	06-28-81	07-01-81	07-02-81	-Verbal reprimand 7/4/81 -LER D&E YGS III -Latest evaluation 4/3/81 Good

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
D&E	[redacted]	[redacted] YGS	07-19-81	07-23-81	07-23-81	-Verbal reprimand and counselled 7/24/81 -Written reprimand 9/16/81 -YGS II LER D&E -Latest evaluation 10/21/81 Good
D&E	[redacted]	[redacted] YGS 6	09-08-81	09-08-81	09-10-81	-Verbal reprimand 9/10/81 -Active employment: YGS II LER D&E -Last evaluation 9/25/81 Satisfactory
D&E	[redacted]	[redacted] YGS	09-27-81	09-29-81	09-29-81	-Verbal reprimand -Written reprimand 10/28/81 -Active employment: YGS I COJTC -Latest evaluation 11/23/81 Good
D&E	[redacted]	[redacted] YGS	09-28-81	10-01-81	10-01-81	-Employee resigned 9/28/81
D&E	[redacted]	[redacted] YGS	10-26-81	10-27-81	10-27-81	-Suspended 10/27/81 -Reassigned to recreation 11/30/81 -Active employment: YGS II -Latest evaluation 7/29/81 Good
D&E	Travis Hudson	[redacted] YGS	11-11-81	11-16-81	11-17-81	-Termination recommended 11/20/81 -Terminated effective 12/15/81

6) Same Individual

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
D&E	[redacted]	[redacted] 7 CLS	11-11-81	11-16-81	11-16-81	-Suspended 11/17/81 -YGS III -Latest evaluation 8/26/81 Satisfactory/ Good -Resigned 3/8/82
D&E	[redacted]	[redacted] YGS	11-29-81	12-03-81	12-03-81	-Extra training, supervision, written reprimand recommended 1/20/82 -Terminated 2/21/82
Whitaker	[redacted]	[redacted] YGS	08-23-78	08-23-78	08-23-78	-Written reprimand 9/6/78 -Resigned 9/26/78
Whitaker	[redacted]	[redacted] Dentist	09-29-78	09-29-78	09-29-78	-Counselled 9/78 -Resigned 4/25/80
Whitaker	[redacted]	[redacted] YGS	11-28-78	11-28-78	11-28-78	-Disciplinary Review Committee recommends transfer 3/1/79 -Transferred to Parks & Recreation 7/15/79 -Resigned 7/30/79
Whitaker	[redacted]	[redacted] Laborer	01-09-79	01-09-79	01-10-79	-Terminated 2/14/79 -Merit Board Appeal reinstated 4/19/79 -Terminated 12/4/81 -Merit Board Appeal upheld termination 2/18/82
Whitaker	[redacted]	[redacted] 8 Watchman		10-22-79		-Suspended WOP 12/28/81 -Terminated 1/19/82

7) Same Individual
8) Same Individual

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Whitaker	[redacted]	[redacted][9] YGS	05-29-80	05-29-80	05-29-80	-Reassigned to different cottage 6/5/80 -YGS I WSCH
Whitaker	[redacted]	[redacted][9] YGS	05-29-80	05-30-80	05-30-80	-Reassigned to different cottage 6/5/80 -Counselled by Supervisor 6/18/80 -Latest Evaluation 10/15/81 Excellent
Whitaker	[redacted]	[redacted] Watchman	09-27-80	10-01-80	10-01-80	-Verbal and written reprimand 12/3/80 -Suspended 1/7/82-1/18/82 -Terminated 1/19/82 -Merit Board reinstatement 4/23/82 -Transferred to D&E 5/10/82 -Active Employment: S.O. LER D&E Physical Plant -Latest Evaluation 4/28/82 Unsatisfactory
Whitaker	[redacted]	[redacted] YGS	10-19-81	10-19-81	10-20-81	-Resigned 2/5/82

9 Same Individual

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
Whitaker	[redacted]	[redacted] Watchman ?	10-24-81	10-29-81	10-29-81	-"None due to delay in submitting report--report apparently misfiled until found" -Not filed at S.O. until 2/82 -Suspended WOP 12/28/81 -Terminated 1/19/82
Whitaker	[redacted]	[redacted] YGS	11-01-81	11-03-81	11-03-81	-Written reprimand 2/8/82 -Counselled and verbal reprimand 11/23/81 -Active employment: YGSI, WSCH -Latest Evaluation 2/9/82 Requires Improvement
COJTC	[redacted]	[redacted] Teacher	06-28-79	06-28-79	06-28-79	-Counselled 6/28/79
COJTC	[redacted]	[redacted] YGS	09-10-80	09-10-80	Final Report--09-23-80	-Counselled 9/22/80 -Resigned 10/15/80
OCC	[redacted]	[redacted] YGS	08-29-78	08-29-78	Final Report--09-08-78	-Counselled and verbal reprimand 9/22/78 -Terminated 8/6/79
OCC	[redacted]	[redacted] YGS	09-30-78	10-02-78	10-02-78	-Counselled 10/13/78 -Active employment: YGS II, OCC -Latest Evaluation 11/16/81 Satisfactory

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
OCC	[redacted]	[redacted] YGS	11-30-78	11-30-78	11-30-78 Final Report-- 12-04-78	-Counselled 11/30/78-12/4/78 -Abandonment of position 12/25/78 -Appointment expired 1/12/79
OCC	[redacted]	[redacted] YGS	12-17-78	12-18-78	12-18-78	-Transferred to different shift 12/19/78 -Counselling and intensive training 12/19/78 -Verbal reprimand 12/19/78 -Emergency Appointment expired 1/12/79
OCC	[redacted]	[redacted] YGS	09-02-79		Final Report-- 10-02-79	-Terminated 9/24/79 Excessive absenteeism and sleeping on duty
OCC	[redacted]	[redacted] YGS	12-17- 79	12-19-79	Final Report-- 12-27-79	-Reprimand and reassigned to supply -Active employment: YGS I, OCC -Latest evaluation 4/26/82 Satisfactory

CONFIDENTIAL

Institution	Juvenile	Staff and Classification	Date of Incident	Date Incident Reported	Date Investigation Initiated	Actions Taken
OCC	[redacted]	[redacted] YGS	02-18-80	02-19-80	Final Report-- 02-22-80	-Verbal reprimand 2/22/80 -Reassigned to the School for the Blind 2/22/80 -Reassigned to OCC as recreation worker 2/8/82 -Terminated 2/8/82 -Merit Board reinstatement 4/12/82 -Reemployed, transferred to BSSB 5/10/82 -Active Employment: Recreation Worker BSSB
OCC	[redacted]	[redacted] YGS	11-22-80	11-24-80	Final Report-- 12-08-80	-Verbal reprimand 12/8/80 -Retired 4/28/82
OCC	[redacted]	[redacted] Food Serv.	07-23-81	07-27-81	Final Report-- 08-07-81	-Counselled 8/7/81 -Active Employment: Food Service Superviser I, OCC -Latest Evaluation 6/15/81 Excellent

CONFIDENTIAL

June 28, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Patrick [redacted]e

Patrick [redacted] has one of the most extensive records of any juvenile now in the custody of the Department. *See* Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), at 16-17. His file indicates a pattern of chronic misconduct including repeated instances of AWOL, theft, arson and possession of weapons. He has frequently been involved in conflicts with his peers as well as with institutional personnel. Several matters reported to the Subcommittee on May 26 involved Pat [redacted].

I.

One instance reported to the Subcommittee involved a strip search. "So they were strip-searched in the cold weather and they had to walk around in their undershorts." Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 26, 1982), 18 (hereinafter cited as "Transcript at ___"). It was further alleged that the only misconduct of the juveniles was being absent without leave (AWOL).

In January 1982, PAT [redacted] and another juvenile were reported as being AWOL from Helena State School for Boys. At the time of the AWOL, it was reported that PAT [redacted] had in his possession several knives which he had stolen from the school. "Based on past behavior during escapes, both boys were considered dangerous and a threat to the community." William D. Brown, "Investigation of Incident on 1/5/82 involving Patrick [redacted] and Steven [redacted]l" (February 25, 1982), 1. The two juveniles were located several miles from the school a few hours after the AWOL report. When they were required to disrobe as part of a search for weapons or other contraband, pursuant to Departmental procedures, matches were found on PAT [redacted]. Helena Superintendent Tom Jaworsky walked PAT [redacted] several feet away from the institutional vehicle where they were being held in order to talk with him out of hearing of the other juvenile. At that time PAT [redacted] admitted that he had taken the knives, and that they were hidden in his room at the school. The interview procedure was repeated for the other juvenile. The juveniles were then given back their clothing and returned to the school.

The testimony on May 26 also referred summarily to another so-called strip-search incident. Transcript at 18. Again it was reported to the Subcommittee that these juveniles were merely AWOL. The incident report provided to the Subcommittee shows, however, that the juveniles had forcibly taken a set of institutional keys from a houseparent in an attempt to flee from the Helena State School for Boys. They were later caught while stealing clothing from a campus building. A strip-search recovered a weapon fashioned from broken glass. When the juveniles admitted taking the keys and hiding them outdoors, they were sent out to recover the keys. When the keys were returned, the juveniles dressed and were taken to the Crisis Management Center. An investigation by the Department concluded that Jaworsky had used "poor judgment in sending the juveniles out (in their underclothing) to recover the keys," and a verbal reprimand and caution were issued.

II.

It was suggested during testimony on May 26, that Department counsel had interfered with an interview between PAT [redacted] and a representative of the Subcommittee, and that this interference had a "chilling impact" on PAT [redacted] statements to the Subcommittee representative. Transcript at 81.

On Friday, April 16, 1982, Steve Novick, attorney with Legal Aid of Western Oklahoma, discussed with John McCormick, counsel for the Department, arrangements for Subcommittee representatives to interview juveniles at the Department's institutions.[1/] Novick and McCormick agreed that the juveniles should be advised of their right to counsel; that they need not talk with the Subcommittee representatives unless they chose to; that all communications would be in simple language for the juveniles; that no incriminating statements would be solicited; and that all communications with the juveniles would be private and confidential. Mary Louise Westmoreland, counsel for the Subcommittee, was privy to these discussions and arrangements. It was further agreed that the information would be conveyed to the juveniles by Westmoreland prior to any interview. A memorandum from Novick setting forth these procedures was delivered to Westmoreland and William Treanor, investigator for the Subcommittee, on Friday, April 16. See Memorandum, William Treanor and Mary Louise Westmoreland from Steven A. Novick, regarding Interviews with Children at DHS Institutional Facilities, dated April 16, 1982 (copy attached).

At approximately 9:45 P.M. on April 22, Treanor visited one of the cottages at the Rader Intensive Treatment Center. At his invitation, he was accompanied on the tour by Greg Tucker, counsel for the Department, and Herschell Daney, superintendent of the Rader Diagnostic & Evaluation Center. During conversation with several juveniles in the

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[1/] Legal Aid of Western Oklahoma represents the juveniles in connection with a class action against the Department.

cottage, reference was made by one of the juveniles to Pat [redacted], who was confined to his room[2] at the cottage because of his recent AWOL. Treanor requested an opportunity to speak privately with PAT [redacted], and the request was immediately granted.

Because Westmoreland was not present, Tucker spoke briefly with PAT [redacted] in the presence of both Treanor and Daney in order to comply with the instructions from Novick. [redacted] agreed to the interview and Tucker and Daney immediately left the room.

III.

Finally, it was reported to the Subcommittee on May 26 that Pat [redacted] had been the victim of physical and sexual abuse by other juveniles at the Rader Center sometime in late April 1982. Transcript at 82-83.

When this alleged incident was reported, the Department took immediate steps. First, PAT [redacted] was removed from the cottage area where the alleged incident occurred and was placed in circumstances where he was under direct observation on a 24-hour basis. These measures were taken for the safety of the juvenile.

Second, the allegations were thoroughly investigated by William D. Brown, the Department's Chief of Institutional Security, and other Department personnel including

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2/ Treanor testified on May 26 that [redacted] was in "solitary confinement" in a "jail cell" with a "solid metal door." Transcript at 81-82. In fact, [redacted] was confined to his personal dormitory room at the cottage. The door to the room has a window.

CONFIDENTIAL

the Advocate Defender and others at the Rader Center.[3] The investigation determined that [redacted] allegations were contradicted by the other juveniles allegedly involved, although the other juveniles readily admitted that they were displeased with PAT [redacted] because he kept running away and his misconduct had an adverse impact on their own institutional privileges.[4] One student admitted to striking PAT [redacted] once on the head with his open hand. It was explained that they were attempting to influence PAT [redacted] to correct his behavior.

The complete 20-page report prepared by the Department, including interview transcripts, was forwarded to the district attorney in Tulsa who determined that there were no grounds for prosecution.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

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[3] The Department's investigation was conducted in cooperation with a parallel investigation by the Tulsa County Sheriff's Office. Deputy Sheriff Buddy Warren participated in the investigative interviews conducted by Brown.

[4] The homosexual allegations by PAT [redacted] incensed the other cottage residents, and institutional employees were put on overtime to minimize the risk of violence.

LEGAL AID OF WESTERN OKLAHOMA, INC.

MEMORANDUM

To: William Treanor and Mary Louise Westmoreland

From: Steven A. Novick

Re: Interviews With Children at DHS Institutional Facilities

Date: April 16, 1982

This memo is in response to your request for guidance concerning the rights of my clients at DHS institutions. I understand that it is your intention to interview a number of children at Boley, Taft and Whitaker over the coming weekend. Any such children, of course, are class members in the pending action of Terry D. v. Rader, and are therefore my clients for the purposes of your investigation.

As attorney of record and next friend of these children, you have my consent to interview any child at these facilities, provided you advise each child you talk to of the following information:

1. No child is under any obligation to talk to you if they choose not to.
2. *No child is required to make any statements that might tend to incriminate them.
3. Your name will not be publicly used; your story may be used.
4. Nothing you say here will get you in trouble or result in any favors - your parole or release will not be affected in any way.
5. No child is under any obligation to sign written affidavits or give testimony if they choose not to.

The consent to interview children is conditioned upon the interviews being private and confidential with respect to Department attorneys and employees, i.e. only the Senate investigator and the child in the interview room.

* Please do not ask questions that are likely to elicit an incriminati response.

Subcommittee Note:

By letter dated April 7, 1982 the Subcommittee requested that the Department provide addresses for a number of individuals, including "Patrick ____, former resident, Helena State School for Boys." In its request the Subcommittee misspelled Patrick's last name. However, in its response of April 14, the Department, correctly spelling Patrick's name stated that it had not been able to contact him.

Mr. Treanor was only able to speak with Patrick when he fortuitously asked to speak to the students in lock-up at the Rader Diagnostic and Evaluation Center.

June 24, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Restitution and VISTOC

Attached is a current report on the Department's Juvenile Restitution and Offender Responsibility program. This information was requested by Senator Boren during the hearings on May 27. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 209.

Also attached, is information on the Department's "Volunteers in Service to Oklahoma Children" (VISTOC). The VISTOC pilot project has recently been implemented. Senator Nickles expressed an interest in programs of this nature. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 206-207.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: June 7, 1982

From: Dan Broughton, Supervisor
Division of Court Related and
Community Services

Attention: Ted Baumberger, Ph.D., Supvr., DICSC
Consultant on Services to Children
Coordinator of Psychological Servs.

Subject: RESTITUTION STATUS

In Reply—Address to
Attention: ______________________

During fiscal year 1980-81, Court Related and Community Services (CR&CS) staff reported a total of $149,881.09 in retributive payments made to victims of youthful offenders.

During this period a survey of restitution activity further indicated that 1,440 juveniles (cases) participated in the Juvenile Restitution and Offender Responsibility Program at the following levels:

Level I	= voluntary	630 cases = 43.8%
Level II	= prosecutorial (contract with D.A.)	500 cases = 34.7%
Level III	= judicial (court-ordered)	310 cases = 21.5%
		1,440 cases = 100%

Monetary restitution represented 92% of the total amount paid while the remaining 8% was symbolic restitution or "community good works".

In fiscal 1980-81, of 10,752 intakes initiated by CR&CS staff, 2,112, or 20%, were for offenses involving loss. Of those 2,112 intakes, 1,440 restitution cases (68%) were initiated. In the remaining 32% of intakes, restitution cases were not set up for the following reasons: case dismissed by the court, lack of prosecutive merit, victim declined restitution, child under work age and in some cases, the intake disposition had simply not been reached, i.e., was still pending, at the end of the survey period.

Of the 1,440 restitution cases initiated, there were 144, or 10%, reported failures, while the remaining 90% of juvenile participants either completed their restitution obligations or remained in existing programs at the end of the survey period.

During the current fiscal year, FY 1981-82, through the month of April, 1982, CR&CS staff have reported a total of $140,321.60 in retributive payments made to victims. Restitution activity has been reported by a total of 68 of the 74 non-metropolitan counties served by CR&CS. The remaining six (6) counties typically report very low intake activity and a small incidence of property crimes among juvenile offenders.

Following the end of the current fiscal year, June 30, 1982, a comprehensive restitution survey will again be completed and more detailed data will be available.

Dan Broughton

DB:BL:rk

cc: CR&CS File
Intake File (2)

DIVISION OF COURT RELATED AND COMMUNITY SERVICES

RESTITUTION

	Calendar 1978	Calendar 1979	FY 79-80	FY 80-81	FY 81-82 Through April
Total Intakes Completed	10,974	10,400	10,596	10,535	8,380
Total Number of Restitution Cases	1,226	1,195	742 (6 months)	1,440	
Levels					
I. Voluntary	56%	47%	52%	44%	
II. Prosecutorial	27%	32%	26%	35%	
III. Judicial	17%	21%	22%	21%	
Restitution Completion Success Rate	96%	91%	95%	90%	
Total Amount of Restitution Paid by Juveniles	$137,416.27	$180,737.92	$111,216.92	$147,881.09	$140,321.60

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To:	L. E. Rader, Director Department of Human Services	Date:	June 7, 1982
From:	Dan Broughton, Supervisor Division of Court Related and Community Services	Attention:	Ted Baumberger, Ph.D., Supv., DICSC Consultant on Services to Children Coordinator of Psychological Servs.
Subject:	GROUP HOME STATUS	In Reply—Address to Attention:	

The following is an update of the group home program administered by the Division of Court Related and Community Services:

Facility	Sex of Clients	Parent Agency	Operational Date	Number of Facilities	Bed Capacity	Children Served FY 80-81	Children Served FY 81-82(Ap
Pre-Institutional							
Lawton - CRCS	Male	DHS-CRCS	June, 1979	1	8	26	24
Sunbeam - OKC	Male	Sunbeam Family Services	December, 1978	2	8	15	18
*Dillons - Tulsa	Male	Dillon Foundation	February, 1979	1	12	34	23
**Speck Homes - KC	Male	Speck Homes Inc.	October, 1979	1	5	20	16
Tulsa - Girls CR&CS	Female	DHS-CRCS	April, 1982	1	6	0	4
Post-Institutional							
Tulsa - CRCS	Male	DHS-CRCS	January, 1979	1	8	33	26
OKC - CRCS	Female	DHS-CRCS	December, 1979	1	8	40	29
Youth Homes - OKC	Male	Youth Homes Inc.	September, 1979	4	26	53	80

* The Dillon Group Home ceased operation April 30, 1982.
** Capacity is rated by average population for this facility.

This describes the program as it currently exists. Should you wish clarification or more information please let me know.

DB:JT:rk

cc: Group Home File (2)

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: Dan Broughton, Supervisor
Division of Court Related and
Community Services

Date: May 5, 1982

From: Ray Bitsche, Programs Supervisor
Division of Court Related and
Community Services

Attention:

Subject: EMPLOYMENT SURVEY
MARCH, 1982

In Reply—Address to
Attention: ______________________

This survey assumes [illegible]
available for employment

Attached please find the survey taken during March, 1982. The results are somewhat inconclusive as the survey design this year is different from years past. It appears that a different table reflecting different bits of information has been used ever year since 1978. Therefore, a direct comparison cannot be made.

The survey population is comprised only of those custody youth residing in the community between the ages 16-18, as of March, 1982. This would indicate the survey population comprised 79% of all custody youth in the community March, 1982.

The study indicates an average 45% of the survey population statewide was employed full or part-time during the month of March. Information obtained from the Oklahoma Employment Security Commission's Research Division indicates during 1980 there were 203,000 youth residing in Oklahoma between the ages 16-19. Of this group 100,000 (49%) held full or part-time jobs. Our survey reflects the survey population is within 4% of meeting the statewide average for all youth employ[illegible] [illegible] 1980. Given the nature of the youth comprising our survey population, it is quite impressive we are this close to the statewide average.

It is inferred since the number of youth employed, plus the number in school exceeds the total survey population in most districts, there is some overlap. Some of the kids are attending school and working.

There were but three counties (two rural and one metro) statewide which reported data suggesting a considerable percentage of the survey population neither being employed or in school. These three findings will be discussed individually with the appropriate District Supervisors to ascertain whether the assumption is valid. If valid, special attention will be given as the findings in the two rural counties constitute approximately 50% of the survey population in those counties. The instance in the metro county is believed valid because an earlier unrelated survey indicated a similar finding. Steps have already been taken to address this problem in that county.

In conclusion, the data contained in this survey suggest custody youth comprising the survey population were employed at a level almost equal to the percentage of all youth employed statewide during 1980. Two articles

School year employment only.
not summer employment included

are attached which address employment issues relative to the survey population. In addition, there is information about an employer tax incentive plan which could provide additional incentive to hire custody youth.

It is recommended the survey taken March, 1983 be identical to this one in order that a comparison can be done. In addition, it is recommended that as in the past this survey be taken in July to determine the number of custody youth holding summer jobs.

Additional comments and questions will be appreciated.

RB:rk

C.C. District Supv.
RaBitsch
CRCS File

EMPLOYMENT SURVEY MARCH 1982

DISTRICT	TOTAL CASELOAD	SURVEY POPULATION 16-18 pop.	SCHOOL STATUS	EMPLOY. STATUS	% CASELOAD	% SURVEY POP
I	102	38	19	12	12%	31%
II	56	23	16	6	12%	26%
III	290	117	38	58	20%	49.6%
III-A	17	6	3	3	17.6%	50%
IV-A	52	28	24	17	33%	61%
IV-B	60	24	16	17	22%	42%
V	96	36	21	17	18%	48%
V-A	5	2	1	1	16%	50%
VI	198	72	40	32	16%	44%
VI-A	6	3	1	2	33%	66%
VII	158	78	68	20	13%	26%
VIII	60	23	9	14	15%	44%
IX	79	35	13	15	19%	43%
IX-A	60	20	9	10	1.7%	50%
Bryan Co.	16	9	2	4	25%	44%
Statewide	1,255	514	280	228	18%	45%

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: All Institutional Superintendents

Date: June 16, 1982

From: L. E. Rader, Director
Department of Human Services

Attention:

Subject:

In Reply—Address to
Attention: ______

Your attention is directed to the attached proposal for a pilot project entailed "Volunteers In-Service to Oklahoma Children" (VISTOC). I have approved this pilot project as of June 15, 1982. Richard Rettig, Ph.D., will coordinate the project under the direction of the Professional Supervision Committee, Ted Baumberger, Ph.D., Chairman. Your cooperation in the recruitment, training, and on line placement of citizen volunteers in this project is requested.

L. E. Rader, Director
Department of Human Services

LER:TSB:RPR:pm
cc: Baumberger
Rucker
Whittlesey
Keene
Campbell
Broughton
Hill
Harp
MACC
Training Unit
Institutional Chaplains
Institutional C.O.I.S.

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L. E. Rader, Director
Department of Human Services

Date: June 3, 1982

From: Richard P. Rettig, Ph. D.
Coordinator of Training
DICSC

Attention: Ted Baumberger, Ph. D. Supv., DICSC
Consultant on Services to Children
Coordinator of Psychological Services

Subject: VOLUNTEER PROGRAM

In Reply—Address to
Attention: ______________________________

The ACA Standards specifically call for volunteer participation in our programs. Both U. S. Senators and several State Legislators have expressed interest in a state-wide volunteer program to compliment our services to children and youth and to foster community involvement in and commitment to our programs.

At Dr. Baumberger's request, I have drawn up in outline form a proposal for a pilot project in volunteer services.

I am prepared to expand on this proposal with further research, documentation and recommendations if you so request.

Richard Rettig
Richard P. Rettig, Ph. D.
Coordinator of Training, DICSC

RPR:cf

cc: Dr. Whittlesey
Raye Keene
Stacy Hall
H. Snowbarger
MACC

APPROVED
JUN 15 1982
DIRECTOR OF
HUMAN SERVICES

Mr. Rader —
Dr. Rettig testified to this program at the Senate Hearings. I recommend approval to begin development of the Volunteers in Juvenile Corrections. TSB 6/7/82

PROPOSAL

VOLUNTEERS IN SERVICE TO OKLAHOMA'S CHILDREN (VISTOC)

R. P. Rettig, Ph. D.
Coordinator of Training, DICSC

The manual of Standards for Juvenile Training School and Services, Commission on Accrediatation for Corrections, sponsored by the American Correctional Association under Volunteer Involvement, Public and Private Agencies section 9479; provide for securing citizen involvement in the programs, including roles as advisors, interpreters between the program and the public, direct service roles, and cooperative endeavors with juveniles under supervision.

This is a proposal to implement a pilot project within the division, which shall be known as "Volunteers In-Service to Oklahoma Children (VISTOC). It shall be the goal of this project to provide up to twenty-five (25) committed, trained volunteers to work with juveniles in care of DICSC. These volunteers will provide services to children and youth in one of these major areas:

1) As individuals involved in a one-on-one relationship with a youth who has requested this involvement, to visit with him/her while in the institutional setting and to assist in providing the youth with friendship and help as he/she "bridges" into the community.
2) As a trained group facilitator, to meet with youth either in the institutional setting or the community and assist them in problem solving and positive adjustment.
3) Trained volunteers can be used to assist in the coordination and staffing of libraries, classrooms, leisure time activities, religious programs and other areas as designated by the director.

PURPOSE:

The basic purpose of the volunteer service program is to provide supportive assistance to staff in meeting the individual needs of children and youth in custody. This purpose can be articulated in a number of task or function statements, for example:

- To foster a belief in and a committment to the roles and values of the adult world.
- To build up pride and esteem in their future legitimate potential
- To help them lay a foundation from which they can reshape their lives.
- To provide "living bridges" back into the community.
- To assist youth in performing ordinary "survival" tasks in the community such as budgeting, time management, job search, employment counseling and use of leisure time.
- To help youth penetrate the legitimate opportunity structure to the extend that they can have numerous success experiences.

REQUIREMENTS:

All prospective volunteers must agree to:

1) A full background check
2) Pre-service and in-service training as specified
3) All required supervision and consulting services

RECRUITMENT:

Volunteers shall be actively recruited from all socio-economic and culture communities in society. They shall not be accorded regular volunteer status unless and until they meet all the requirements and have attended and passed the pre-service training program and review by the proposed de-selection board.

PRE-SERVICE TRAINING:

An initial orientation session will provide an overview ot the history, policies, and procedures of the Division and will include an overview of the volunteer program. (3 hours)

A second training session shall include a description of the volunteer's duties, as well as a review of the needs, attitudes and lifestyles of the resident population. (3 hours)

IN-SERVICE TRAINING:

Specific efforts shall be made to encourage and enable volunteers to attend staff in-service training programs in the areas of their contribution.

ADMINISTRATION OF PROGRAM:

Immediate supervision of volunteers shall be the responsibility of each superintendent and District Supervisor and their designates.

It is recommended that responsibility of coordinating of this program state-wide shall be a joint effort of all State Office Supervisors in CR&CS, DIS and related areas.

PROGRAM EVALUATION:

Prior to the inception of this program, a plan for it's full evaluation will be made and data collected throughout the six-month pilot phase. At the end of the six-month program, evaluation will occur and recommendations will be made with regard tc continuing, changing, or canceling the program.

STANDARDS:

All relevant ACA Standards, including 9479 thru 9487 will be implemented in full in all phases of this project.

VOLUNTEER INVOLVEMENT

PUBLIC AND PRIVATE AGENCIES

9479 - Written policy and procedure provide for securing citizen involvement in the programs, including roles as advisors, interpreters between the program and the public, direct service roles, and cooperative endeavors with juveniles under supervision (Essential)

DISCUSSION: The facility administrator should seek assistance from citizens in the community. Volunteers can be used to help coordinateand staff the facility's educational library, recreational, religious and other programs and can serve as advisers to residents.

9480 - There is a staff member who is responsible for administering the volunteer services program. (Essential)

DISCUSSION: Assignment of a senior staff member to supervise the volunteer program will help ensure that the citizens who volunteer their time will receive guidance, support and the resources they need.

9481 - Written policy and procedure specify the lines of authority, responsibility and accountability for the volunteer services program. (Essential)

DISCUSSION: These should be communicated to all residents, staff members and volunteers so that residents and staff members who have suggestions for programs can bring them to the attention of the appropriate person and so that volunteers know how to obtain guidance and resources. Volunteers should be allowed to attend staff and in-service training that pertain to the volunteer services program.

9482 - Volunteers are recruited from all cultural and socioeconomic segments of the community. The procedure for selecting volunteers is similar to that used for selecting paid personnel. (Essential)

DISCUSSION: Efforts should be made to recruit volunteers from all segments of society. The selection process should include obtaining basic information about each applicant and a personal appearance. If rejected, the applicant should be informed of the reasons and provided an appeal process.

9483 - Prior to assignment, each volunteer completes an orientation and training program appropriate to the nature of the assignment. (Essential)

DISCUSSION: An initial orientation session should address the history, policies and regulations of the facility and shold include an overview of the program so that the volunteers may develop a sense of their role in the program. Orientation should include a description of the volunteer's duties, as well as a review of the needs, attitudes and lifestyles of the resident population. One-time or short-term volunteers may require less intensive orientation, especially in small facilities.

9484 - There is a system for official registration and identification of volunteers. (Essential)

DISCUSSION: All volunteers should be registered with the parent agency for insurance purposes. An identification card should be issued to each volunteer. This record ensures proper identification and should include a photograph, address, telephone number at which the volunteer can be reached and other job-related information. One-time volunteers may require only the approval of the facility administrator.

9485 - Volunteers agree in writing to abide by all facility policies, particularly those relating to confidentiality. (Essential)

> DISCUSSION: The facility should develop written policies and procedures specifying that volunteers respect all facility policies. It is particularly important that volunteers respect the confidentiality of records and other privileged information.

9486 - Written policy specifies that volunteers perform professional services only when certified or licensed to do so. (Essential)

> DISCUSSION: Volunteers should not perform professional services without proper certification, examination or license, if required. It is suggested that volunteers offering professional services be required to cite their credentials and or certificate status in their initial application. Tutoring or sponsorship of a craft or hoppy program is not considered a professional service. This procedure will enable appropriate use of professional services and satisfy state requirements.

9487 - Written policy and procedure provide that the administrator curtails, postpones or discontinues the services of a volunteer or volunteer organization when there are substantial reasons for doing so. (Essential)

> DISCUSSION: The administrator should balance the benefits of volunteer participation with the potential risks. Where volunteer activity can be shown to threaten the order and security of the facility or the safety of the volunteer, such activity should be limited or discontinued until the problem is resolved.

June 30, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Central Oklahoma Juvenile Treatment Center */

The Central Oklahoma Juvenile Treatment Center (COJTC) at Tecumseh provides intensive psychological treatment and therapy programs, as well as regular academics, for in need of supervision (INS) and delinquent juveniles. No juvenile with violent tendencies is admitted to this program, and before admission a juvenile must demonstrate through a diagnostic and evaluation process both the mental capacity and the attitude which will enable him or her to respond to the program.1/ The only exception to this screening process is that most female delinquents are placed in this less restrictive treatment setting.2/ The coeducational population includes youth ages 15 through 17, and the 1981 juvenile census shows that 66 delinquent and 65 INS juveniles were enrolled in the COJTC program.3/ No "deprived" children are at COJTC. The common characteristic among the disturbed adolescent population at COJTC is "unmanageability" in community-based programs, and in their own homes.

"This is a non-correctional treatment facility where placement is based upon meeting certain criteria, including a positive emotional attitude and a non-violent

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*/ This memorandum provides information relating to the Subcommittee's concern about "mixing" at COJTC. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 116-118.

1/ This information is repeated from Memorandum to the United States Senate Subcommittee on Juvenile Justice (March 5, 1982), 4-5.

2/ The general placement of female delinquents at COJTC will end when the Oklahoma Children's Center is converted to a coeducational training school. Serious offenders and those with violent records are usually placed in the female cottage at the Rader Intensive Treatment Center.

3/ 1981 Annual Report, Oklahoma Department of Human Services, A-40.

record. None of the charges made yesterday about improper influencing of deprived children by delinquents were related to this facility." Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 15 (testimony of Dr. Theodore Baumberger).

COJTC is the site of the former Girls' Town which was transferred to the Department in 1961. Girls' Town was statutorily changed to a coeducational non-correctional treatment facility in May 1978, a coeducational treatment program was developed, and the first males were admitted in December 1978. A new swimming pool and softball field have been installed, and remodeling has been completed on a spacious medical clinic including psychiatric services. Remodeling is in progress on a new reception center, and a crisis management center.

Ten social workers, seven psychologists, six professional recreation workers, a psychiatric consultant, a clinical family and group work consultant, and a medical staff including six L.P.N.'s, sixteen R.N.'s, four medication aids, and a clinic supervisor provide services at COJTC. Present programming is directed toward achieving accreditation as an adolescent psychiatric treatment facility by the Joint Commission on Accreditation of Hospitals.

Because COJTC has a select population of juveniles, incidents of violence and confrontations between juveniles or between juveniles and staff personnel are relatively infrequent. None of the allegations heard by the Subcommittee involve juveniles at COJTC.

The adjudication labels notwithstanding,[4] the COJTC population is composed of older teens whose history, needs and rehabilitation progress are very similar. The program at COJTC, in a coeducational environment, provides both individual and group treatment experiences, social interaction, and education, designed to enhance personal growth and the internalization of both perspective and self-control essential to successful reintegration into community life. This reintegration is not delayed, but is effected on a "non-sentence" basis when institutional and community based professional staff determine that the objectives of the resident's treatment plan have been achieved.

Although the statement by Dr. Theodore Baumberger on May 27 to the effect that there is "a slight amount of mixing at the Central Oklahoma Juvenile Treatment Center at Tecumseh"[5] was somewhat misleading for lack of explanation, it should be apparent from the above information that there is no indiscriminate mixing of delinquents and status offenders at COJTC. While the select juvenile population at COJTC is composed of some juveniles labelled INS and some labelled delinquent, it is not open to any juvenile adjudicated delinquent but only those who are not prone to violence and who demonstrate a positive attitude toward treatment. With the exception of a few female juveniles, all of the COJTC residents are assigned to the treatment facility because of their need for and amenability to the special COJTC treatment programs as determined by the special screening process.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

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[4] The INS label is applied to juveniles who have been adjudicated as "unmanageable" or "beyond control." These juveniles frequently have criminal arrest records and are institutionalized because they present serious behavioral problems in community-based programs or private care. Reliance on labels is not well-founded in light of plea-bargaining and other factors which can lead to different adjudication in similar situations. See Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 135-136 (testimony of Don McCorkell).

[5] Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 27, 1982), 15.

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July 8, 1982

The Honorable Arlen Specter
Chairman, Subcommittee on
  Juvenile Justice
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Specter:

At the hearing of the Subcommittee on Juvenile Justice on May 27, 1982, questions arose concerning a statement in the testimony of George Miller, Secretary to the Director of the Oklahoma Department of Human Services, concerning the OSBI investigation of allegations relating to mistreatment of juveniles in the State's institutions. You asked that I make an inquiry concerning this subject in light of information received by the Committee as reported by you and later by Subcommittee counsel, Bruce Cohen, and to amplify the Department's statement on the subject in light of that inquiry. This letter is in response to your request.

George Miller's written statement, submitted to the Subcommittee on May 26, 1982, began by referring to allegations that had been made during an earlier hearing of the Subcommittee in February concerning the mistreatment of juveniles and the handling of mistreatment incidents by the Department. The statement then reported that after these allegations were aired the Department proposed to the Governor of Oklahoma that they be investigated by the Oklahoma State Bureau of Investigation. The statement then said that OSBI "has exhaustively investigated every allegation, and information available to us indicates that the OSBI had found no support for the allegations pertaining to the juvenile programs operated by the Department." The statement then goes on to advise that the Department undertook its own investigation, the results of which were reflected in the Department's written response to the Subcommittee on March 5, 1982.

The bulk of the remainder of George Miller's 29-page statement contained discussion of a number of the specific allegations raised in the February hearing. The statement concluded that in several instances the allegations of mistreatment had not been substantiated, but that in other instances they had been substantiated by the Department. In these latter cases, the statement explained the Department's response and attempted to show that the Department had taken appropriate action in light of the misconduct that occurred.

Two issues arose at the hearing concerning George Miller's statement about the OSBI investigation. One related to the OSBI findings and the other related to the status of the OSBI investigation. I would like to address these separately.

The first issue is whether the OSBI had found that none of the allegations of mistreatment of juveniles had been substantiated. Your questions to George Miller indicated that you so construed his statement, which you felt was inconsistent with reports that the Subcommittee had received from the OSBI to the effect that several of the matters under investigation had been forwarded for consideration by local prosecutors.

When the third paragraph on the first page of Mr. Miller's statement (which was repeated by Mr. Miller in virtually the same words at the hearing) is read by itself, it does convey the meaning that none of the allegations of mistreatment had been substantiated. This was not the intended meaning of the statement, and this becomes clear upon reading Mr. Miller's entire statement, which details a number of instances in which mistreatment was substantiated but where the statement explains the Department's response when the mistreatment was established. Mr. Miller sought to make this distinction in the colloquy that followed your questioning him about the paragraph.

There is no question that the particular paragraph is poorly worded and left the Department open to the question that you raised. I take responsibility for that. I should have caused that paragraph to be written differently before it was submitted to the Subcommittee. I can say, however, that there was no intention to leave a misleading impression, as is evidenced by the later extensive discussion in Mr. Miller's statement of the instances in which mistreatment allegations had been substantiated.

Mr. Miller did mean to say that the OSBI had not found, in any case where mistreatment had been substantiated, that the Department's response to the situation was insufficient or inappropriate. That was his understanding at the time he made his statement.

The second issue relates to the status of the OSBI investigation. Although Mr. Miller's statement does not squarely state that the investigation was completed, it certainly so implied, and it was Mr. Miller's understanding at the time that the OSBI investigation of the allegations made at the February hearing -- the only allegations discussed in his prepared statement -- was completed. The information that Mr. Cohen supplied, based on his conversation with the Governor's counsel, seemed to indicate that this part of the OSBI investigation was still ongoing, and the Subcommittee seems to have thought this to be the purport of statements made that day by Mr. Sharp, Deputy Director of OSBI.

Mr. Miller's information on this subject came from K. Gregory Tucker, an associate of this firm who works with me on this matter. Mr. Tucker's information was obtained from David Hudson, counsel to Governor Nigh. Mr. Tucker had met with Mr. Hudson in Oklahoma City on May 4, 1982, and asked if Mr. Hudson could advise if and when the OSBI investigation of the February allegations disclosed any improper response by the Department to allegations of mistreatment of juveniles. Mr. Hudson had noted the limitations on disclosure of information obtained by OSBI, but indicated that to the extent permitted by law he would advise of the status of the investigation. Mr. Hudson recalls that he also indicated to Mr. Tucker that he would advise whether any local prosecutors had indicated that any prosecutions were being contemplated. At that time Mr. Hudson did not know when the results of the OSBI investigation would be available.

On May 20, 1982, in a telephone conversation, Mr. Tucker inquired of Mr. Hudson if he knew whether the OSBI investigation of allegations that had been raised at the Subcommittee hearing in February had been completed. Mr. Hudson replied that a report to the Governor was expected the following Monday (May 24). Mr. Tucker then asked if Mr. Hudson could say whether the investigation had disclosed any action by the Department that would warrant prosecution or would indicate that the Department's response in any of the cases investigated by the OSBI had been inappropriate. Mr. Hudson replied that he believed that there were no such instances with the possible exception of one matter involving one of the schools for the mentally retarded. That information was the basis of the statement made by Mr. Miller to the Subcommittee.

Mr. Hudson recalls that in responding to Mr. Tucker on May 20 he was limiting his comment to those matters which had been referred to local district attorneys. Mr. Tucker did not understand that Mr. Hudson's comment was limited to those matters.

Although no public announcement had been made of an OSBI report prior to the May 27 hearing, we were surprised by the information that seemed to indicate that the investigation of the February allegations was apparently still ongoing. This appears to be what Mr. Sharp conveyed in his testimony, although he did not differentiate between those matters and the other allegations and cases involving the Department that are also being investigated by OSBI.

George Miller's statement to the Subcommittee had intended to deal with the allegations raised at the February hearing. But on rereading the paragraph concerning the OSBI investigation, I can see that it could be understood to refer to the entire OSBI investigation of the Department, and to convey the impression that the entire investigation had been completed. I apologize to the Subcommittee for this erroneous impression. It was not intentional. Mr. Miller did not mean to say that the full OSBI investigation had been completed. But he did mean to say that the investigation of the February hearing allegations had been completed. Both he and we thought at the time the statement was made that this was so.

I hope this report answers the Subcommittee's questions and resolves the apparent inconsistencies concerning the statements of Mr. Miller pertaining to the OSBI investigation. We deeply regret that the Committee felt it had been given misleading information by the Department on this subject. I can only assure you that there was no intention to mislead. The Department has been aware that the Subcommittee staff has been in contact with the OSBI and could easily verify any statements made concerning the status of its investigation. Beyond that, the Department, while it has sought to defend its actions where appropriate, has endeavored throughout to present a fair and accurate account of its actions. The statements about which you requested this report were poorly worded and unfortunately misleading. I hope this letter serves to correct the record.

Respectfully,

Charles A. Miller

Charles A. Miller
Counsel for the Oklahoma
Department of Human Services

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

To: L. E. Rader
Director, Human Services

Date: July 8, 1982

CONFIDENTIAL

From: William D. Brown
Chief of Security for Institutions

Attention:

Subject: ASSAULT ON JOHN [redacted] AND
STACY [redacted] BY OTHER STUDENTS
AT THE BOLEY STATE SCHOOL

In Reply—Address to
Attention: ______________________

This investigation was predicated upon Greg Tucker's request of June 9, 1982. Mr. Tucker indicated a thorough inquiry was to be made surrounding the above incident. Specifically, the allegation of the staff causing the assault and why the incident was not previously reported on. The following is a summary of the findings in this matter.

The official records for the Boley State School (BSS) pertaining to student census were reviewed. It was determined that around the time John [redacted] and Stacy [redacted] were assaulted, April 18, 1982, there were fifteen students residing with them in Lincoln Cottage. Nine of these students were interviewed; the other six were not available due to being on leave or AWOL. Annie Rainwater, YGS, Lincoln Cottage, was not available for interview either. She left Boley, Oklahoma and went to Louisiana. The shift log for April 18, 1982 indicated Fitzgerald and Beavers were on duty in Lincoln Cottage when JOHN [redacted] was assaulted.

On April 18, 1982, JOHN [redacted] was also assaulted by Mr. M [redacted], YGS. James W. Cole, Division of Child Welfare, DHS, investigated this incident and reported on the same (see attachment). Cole stated that JOHN [redacted] was not concerned with the incident involving the students. He concentrated on his complaint against JOHN [redacted]. Cole interviewed three (3) staff members, including a nurse, who were in contact with JOHN [redacted] just after the incident with the students. These individuals indicated there were no serious injuries to JOHN [redacted] as a result of the fight. Cole considered the matter not worth pursuing in view of the gravity of the assault by [redacted].

Ralph McReynolds, Student Defender, stated JOHN [redacted] never told him he was beat up by six (6) or seven (7) students. JOHN [redacted] advised McReynolds he got into a fight with two students and hurt his finger. JOHN [redacted] did not mention his talking to Bill Treanor as being the motive behind the students' actions. McReynolds also indicated the first time he heard about the staff offering a "six-pack" was when David [redacted] made the claim to the U.S. Senate. [redacted] JOHN also appeared to McReynolds to be only concerned with the [redacted] incident.

McReynolds was contacted by Stacy [redacted] on April 19, 1982, see attached report. STACY [redacted] told McReynolds that Bill Treanor requested him to report an assault. STACY [redacted] advised he was beat up by one or two students on April 17, 1982 as a result of "snitching" on some houseparents. STACY [redacted] refused to identify the students. McReynolds contacted STACY [redacted] a second time to obtain sufficient information to make an inquiry. [redacted], again, refused to identify the other students. Due to STACY [redacted]'s uncooperative attitude and his sustaining only minor injuries, McReynolds did not and could not pursue the matter.

William Fitzgerald and Laura Beavers were the houseparents on duty in Lincoln Cottage when JOHN [redacted] was assaulted. Several students stated both these people were present while the fight took place and did not try to break it up. Beavers stated she was out of the cottage, going to the restroom, when the incident occurred. Fitzgerald advised he approached JOHN [redacted]'s cubicle because there were several students standing there yelling at JOHN [redacted]. Fitzgerald sent the students to their rooms and asked JOHN [redacted] what happened because he was crying. JOHN [redacted] told him nothing was wrong and would not discuss it. Fitzgerald noticed JOHN [redacted] had skinned his knuckle and sent him to the infirmary. JOHN [redacted]'s statements substantiate the fact that neither houseparent was present when the assault took place.

After the assault, Fitzgerald sent JOHN [redacted] to the Shift Chief, John Embry, to be sent to the nurse. The Administrator on duty, Clara Breaux, was in Embry's office also. JOHN [redacted] was very upset when he entered Embry's Office. Both he and Breaux inquired as to what happened. JOHN [redacted] told them some kids had "jumped" him. He refused to identify the students or say why he was assaulted. Embry sent JOHN [redacted] to the nurse. Upon JOHN [redacted]'s return, Embry again asked him who beat him up. Again JOHN [redacted] refused to cooperate. Embry asked him if he was ready to go back to the cottage, to which he replied "No". Embry suggested he go to CIC to calm down which is what he did.

Robert Buckner, Superintendant, saw JOHN [redacted] that day while he was going to see the nurse. JOHN [redacted] told him he was "jumped on" by some other students. [redacted] refused to tell Buckner the identity of the students or the motivation behind the assault.

James Morrow, Lincoln Cottage Coordinator, advised he tried to inquire about the assault on Stacy [redacted]. STACY [redacted] refused to give Morrow any information about the incident. Morrow stated he talked with JOHN [redacted] also and could not get the names of the other students or a motive. Charlotte Mayse talked with JOHN [redacted] shortly after he was assaulted by [redacted]. JOHN [redacted] told her several students beat him up. He refused to tell her who did it or why it was done. He only said "It doesn't matter".

The staff that came into contact with JOHN [redacted] after the assault stated he refused to identify the students involved. They all, with the exception of Bill [redacted], were not told why the assault took place. Stacy [redacted] also would not tell them who beat him up. Without this information it made further investigation unfeasible. These employees also stated the first time they heard about any reward offered by the staff for these assaults was during David [redacted] U.S. Senate testimony.

Fifteen students from Lincoln Cottage were interviewed. There was much conflict in the details obtained. The students were vague when attempts were made to substantiate their stories by separating hearsay from first-hand knowledge. Several were very uncooperative.

Many students interviewed stated they did not like JOHN [redacted] because he was always "shooting his mouth off". JOHN [redacted] threatened them with having his older brother beat them up. It was also determined that offers of canteen priviledges for getting someone beat up occurs between the students. Both JOHN [redacted] and STACY [redacted] were recognized as not being able to fight. This DAVID, STACY + encouraged the other students to pick on them. It was also mentioned that JOHN [redacted], [redacted] and [redacted] were using this incident to get the houseparents in trouble and to get out of the institutions.

Richard Hawkins, House Parent, stated he probably did tell JOHN [redacted] he would "kick his ass" if he went AWOL. This was done in jest in as much as [redacted] JOHN said he was going to go AWOL numerous times. In the eight (8) years he has been at Boley he has never received a complaint about abusing a student while on AWOL. Several students called Hawkins to Lincoln Cottage and told him JOHN JOHN [redacted] snitched on him. The students told Hawkins they were going to beat JOHN [redacted] up. Hawkins stated he told them to forget it and to leave him alone. He also denied ever offering a "six-pack" to have anyone beat up.

It is apparent these assaults were not persued, in part, by the staff because of the uncooperative attitude of the victims, JOHN [redacted] and STACY [redacted]. These students refused to identify their assailants which precluded further inquiry. JOHN [redacted], in addition, did not state to the staff why he felt he was beat up. In view of the unrelated assault by [redacted], the importance of the actions of the students were diminished. Much of the responsibility for these beatings falls upon Mr. Treanor. Had he exercised due professional care and taken the time to interview each student separately, JOHN [redacted]'s and STACY [redacted]'s comments would have remained confidential. The other students would not have known about the derrogatory statements and, therefore, have no reason to assault these two. Mr. Treanor should have recognized this danger.

Due to the conflicting testimony, it is not determinable if the staff made an offer of a "six-pack" to have [redacted] JOHN and [redacted] STACY assaulted.

William D. Brown

William D. Brown
Chief of Security
for Institutions

August 13, 1982

MEMORANDUM TO THE UNITED STATES SENATE
SUBCOMMITTEE ON JUVENILE JUSTICE

Re: Testimony of Khristinna ("Tina")

During hearings before the United States Senate Subcommittee on Juvenile Justice on May 26, 1982, Tina, a juvenile witness testifying at the invitation of the Subcommittee, stated that another juvenile identified as "Frank" forced her to engage in sexual activity. Transcript of Proceedings, United States Senate, Subcommittee on Juvenile Justice of the Committee on the Judiciary (May 26, 1982), 129-130 and 135-136.

On July 22, 1982, Tina made statements to Oklahoma State Bureau of Investigation agents in the presence of Mary E. Steddum, an employee at the Whitaker State Children's Home, indicating that her allegations of forced sexual activity were not true. These subsequent statements are reported in the attached contemporaneous memoranda prepared by Ms. Steddum and Stephen R. Scott, superintendent at the Whitaker State Children's Home.

DEPARTMENT OF HUMAN
SERVICES, OKLAHOMA

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

CONFIDENTIAL

To: Stephen R. Scott, Superintendent
Whitaker State Children's Home

Date: July 23, 1982

From: Mary E. Steddum

Attention:

Subject: SLAUF, Tina

In Reply—Address to
Attention: ____________________

On Thursday, July 22, 1982, I was requested by Stephen R. Scott, Superintendent of Whitaker State Children's Home to sit in as a witness while two OSBI agents talked with Tina [redacted]. The OSBI agents informed Tina that her information concerning the incident where she alleged Frank [redacted] had raped her approximately one year ago was inconsistent and they needed to make sure she was telling the truth. The OSBI agents informed Tina that they had brought a polygraph machine with them and was going to administer it if they felt it to be necessary. The OSBI agents explained in detail to Tina how it worked and how information was recorded. The OSBI agents informed Tina numerous times as to the importance of telling the truth and that it was against the law to accuse a person of something they didn't do. In reviewing the incident with the OSBI agents, Tina decided that she would like to forget the incident and not take the polygraph test because she was not raped. The OSBI agents agreed to Tina's consent.

Mary Steddum)

Mary E. Steddum

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

CONFIDENTIAL

To: L. E. Rader, Director
Department of Human Services

Date: July 26, 1982

From: Stephen R. Scott, Superintendent
Whitaker State Children's Home

Attention: T. S. Baumberger, Ph.D.DICS,Supv.

Subject: Tina Slauf
ISW-4426

In Reply—Address to
Attention: ____________

On July 22, 1982, I was approached by two agents of the O.S.B.I. who informed me that in previous conversations with Tina [redacted], she had agreed to submit to a polygraph test. In order to be able to administer this, they would require my signature as guardian for Tina along with herself and the signature of two witnesses. At that time I contacted Dr. T. S. Baumberger who consulted with Legal Counsel, Mr. David Brown and I was advised that it would be appropriate for me to sign for this purpose. The agents also requested that I allow one female staff member to sit in with them during their questioning and I assigned Mrs. Mary Steddum, Speech Pathologist, to witness their interview as she is the Cottage Coordinator for Pine Cottage where Tina is housed.

Attached you will find a report from Mrs. Steddum which indicates that the agents interviewed Tina prior to attempting to administer the polygraph and during their conversation, Tina stated that she would like to forget the incident and not take the polygraph because she was not raped by a male student previously in residence at Whitaker, as she had previously alleged.

This is being submitted for your information.

Stephen R. Scott, Superintendent

SRS:ph

Attachment

cc: Jack Campbell, Assist. Supv., DICS